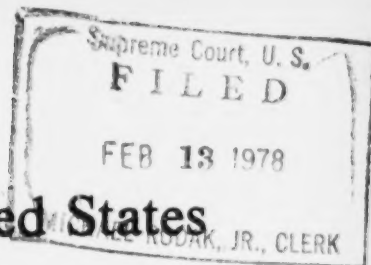


IN THE  
**Supreme Court of the United States**

October Term, 1977

No. 78, Original



STATE OF CALIFORNIA,

*Plaintiff,*

vs.

STATE OF ARIZONA and the  
UNITED STATES OF AMERICA,

*Defendants.*

**MOTION FOR LEAVE TO FILE COMPLAINT  
AND COMPLAINT**

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IN THE  
Supreme Court of the United States

October Term, 1977

No. \_\_\_\_\_, Original

STATE OF CALIFORNIA,

*Plaintiff,*

vs.

STATE OF ARIZONA and the  
UNITED STATES OF AMERICA,*Defendants.*

## MOTION FOR LEAVE TO FILE COMPLAINT

The State of California, appearing by its Attorney General Evelle J. Younger, respectfully requests leave of the Court to file the Complaint submitted herewith against the State of Arizona and the United States of America. The State of California seeks to bring this suit under the authority of Article III, Section 2, Clause 2 of the Constitution of the United States and 28 U.S.C. § 1251.

EVELLE J. YOUNGER, Attorney General  
of the State of California,  
N. GREGORY TAYLOR,  
Assistant Attorney General,

By

*Russell Iungerich*

RUSSELL IUNGERICH,  
Deputy Attorney General,

*Attorneys for Plaintiff  
State of California.*

IN THE  
**Supreme Court of the United States**

October Term, 1977  
 No. \_\_\_\_\_, Original

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STATE OF CALIFORNIA,

*Plaintiff,*

vs.

STATE OF ARIZONA and the  
 UNITED STATES OF AMERICA,

*Defendants.*

---

**STATEMENT IN SUPPORT OF MOTION  
 FOR LEAVE TO FILE COMPLAINT**

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The State of California brings this action against the State of Arizona and the United States of America to quiet title to a portion of the bed of the Colorado River which California owns by virtue of its sovereignty. The purpose of the proposed action is to establish with particularity along an 11.3 mile stretch of the Colorado River the boundaries between California's sovereign lands and adjacent lands owned by the State of Arizona and the United States of America. Since this 11.3 mile stretch of the Colorado River involves only one of a number of similar boundary controversies, California also urges this Court to retain jurisdiction over the entire Colorado River for the adjudication of these additional disputes between the parties.

**BACKGROUND**

This action finds its genesis in the fact that, prior to flood control, the Colorado River meandered back and forth across the broad flood plain along the California-Arizona border. Natural forces, such as floods, have caused the river over the years to move from one channel to another. Various rechannelization projects have also caused movement of the river. Of the current 229 miles of the Colorado River along the California-Arizona border, 50 or more miles of the riverbed is in an artificial location because of rechannelization produced by the works of man. In those areas where the Colorado River is in a relocated position, loops or bends in the river have been by-passed by man-made cuts or the forces of nature. Many of these cut-off loops have dried up. Others are backwaters with a connection to the present channel and have become important wildlife habitats. There are approximately 80 to 90 miles of these old channels in the vicinity of the present California-Arizona boundary.

Under the settled principle of *Pollard's Lessee v. Hagan*, 44 U.S. (3 How.) 212, 219 (1845), the States of California and Arizona became vested with title to all lands beneath navigable waters within their boundaries upon admission to the Union on an equal footing with the original States. *Oregon ex rel. St. Land Bd. v. Corvallis Sand & Gravel Co.*, 429 U.S. 363, 370 (1977). There can be no controversy that the Colorado River along the California-Arizona border is a navigable river of both states to mid-channel with each State owning one-half of the present bed or one-half of the last natural bed.<sup>1</sup> In *Bonelli Cattle Co. v. Arizona*, 414 U.S. 313, 319 n. 10 (1973), this Court states:

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<sup>1</sup> See footnote 2, *infra*, regarding exceptions to this general principle.

"The Colorado River has been determined to be a navigable waterway, *Arizona v. California*, 283 U.S. 423 (1931), and, once found to be navigable, it remained so. *United States v. Appalachian Electric Power Co.*, 311 U.S. 377, 408 (1940)."

Although the *Corvallis* decision, *supra*, overruled *Bonelli* in its application of federal common law, Justice Rehnquist's opinion for the Court did not question the premise that the Colorado River was in fact navigable for title purposes. Indeed, the Court states affirmatively that "the title to the land underlying the Colorado River at the time Arizona was admitted to the Union vested in the state as of that date under the rule of *Pollard's Lessee v. Hagan*, *supra*." *Oregon ex rel. St. Land Bd. v. Corvallis Sand & Gravel Co.*, *supra*, 429 U.S. at 370. The upper reaches of the Colorado River in Utah have been held to be navigable waters of that State with Utah, rather than the federal government, owning the bed. *United States v. Utah*, 283 U.S. 64, 89 (1931). Since the Colorado River achieved its greatest expanse and flow in its lower reaches along the California-Arizona border prior to the major flood control projects of this century, the navigability of this part of the river is not open to question.

Likewise there can be no controversy as to each State's ownership of one-half of the bed of the Colorado River generally along the southeastern border of the State of California. Article XII of the California Constitution of 1849 described the southeastern boundary of the State as the "middle of the channel" of the Colorado River. The boundary description contained in the 1849 Constitution was approved by Congress when California was admitted to the Union pursuant to the Act of September 8, 1850, 9 Stat. 452 (1850). Article I, section 1 of the Arizona

Constitution, adopted by constitutional convention in 1910, described the boundary with California as "mid-channel of the Colorado River." This boundary description was approved by Congress in the joint resolution providing for Arizona's admission to the Union "on an equal footing with the original States . . ." 37 Stat. 39 (1911). Thus generally, the States of California and Arizona own one-half of the bed of the Colorado River lying in the vicinity of their common boundary.<sup>2</sup>

The precise location of the bed owned by the two states is the essence of the controversy. The change in location of the bed of the Colorado River from 1850 to the present has left considerable doubt as to which bed the two states own by virtue of their sovereignty. At many locations in the vicinity of the California-Arizona border, one may choose between the present channel and one or more abandoned beds. Solution of this perplexing question requires the

<sup>2</sup> At the time of California's admission to statehood, the portion of the Colorado River lying downstream from the junction with the Gila River to the 1848 boundary with Mexico was entirely within the exterior boundary of the State of California. California claims that it owns the entire bed of this nine-mile-long segment of the Colorado River. It should also be noted that the boundaries of several Indian reservations along the Arizona side of the river appear to include the bed of the Colorado River to mid-channel. Since these Indian reservations antedated Arizona statehood, there are several locations along the river where California owns to mid-channel on one side and the federal government may own to mid-channel in trust for an Indian tribe on the other side.

Neither of these discrete problems is involved in the Davis Lake Area, described *infra*, whose boundaries California seeks to establish with particularity at this time. If this Court retains jurisdiction, a petition for entry of a supplemental decree might involve one or both of these exceptions to the general principle that the ownership of the bed of the Colorado River is divided between the States of California and Arizona along their common boundary.

application of the law of river boundary movement to the historical facts relating to each change in the position of the Colorado River between the California-Nevada border and the international boundary with Mexico.

The rules of law relating to the movement of boundaries when a river alters its course are well summarized in *Arkansas v. Tennessee*, 246 U.S. 158, 173 (1918):

"It is settled beyond possibility of dispute that where running streams are the boundaries between States, the same rule applies as between private proprietors, mainly, that when the bed and channel are changed by the natural and gradual processes known as erosion and accretion, the boundary follows the varying course of the stream; while if the stream from any cause, natural or artificial, suddenly leaves its old bed and forms a new one, by the process known as avulsion, the resulting change of the channel works no change of boundary, which remains in the middle of the old channel, although no water may be flowing in it, and irrespective of subsequent changes in the new channel. *New Orleans v. United States*, 10 Pet. 662, 717; *Jefferis v. East Omaha Land Co.*, 134 U.S. 178, 189; *Nebraska v. United States*, 143 U.S. 359, 361, 367, 370; *Missouri v. Nebraska*, 196 U.S. 23, 34-36."

When one applies these principles of law to a river boundary between two States, the sovereign title of each state as well as the interstate boundary will follow the wet bed of the river where the river gradually changes its channel by the processes of erosion and accretion. On the other hand, an avulsive change will leave each State owning one-half of the old channel with the interstate boundary also located in the abandoned channel.

Along the California reach of the Colorado River, several problems are encountered. The first is the absence of a complete collection of historical data on river movement to permit an informed judgment as to whether any particular change of channel was either accretive-erosive or avulsive. The second difficulty is to determine how far up and down the river an avulsive change may have influenced the course of the river. Thirdly, even when it can be determined that a change in channel was avulsive, there are usually several abandoned loops cut off by the river's movement to a new location. One must then identify which of these old beds was the last natural channel of the river in which California and Arizona each own a half.

Until 1966, there was general confusion as to the location of the interstate boundary between California and Arizona. In many instances, there was doubt as to whether a particular parcel of property was within the political boundaries of California or Arizona. All along the river, there was uncertainty as to which State had jurisdiction for purposes of enforcing its laws. In 1966, Congress ratified the Interstate Boundary Compact Defining the Boundary Between the States of Arizona and California. Pub.L. 89-531, 80 Stat. 340 (1966). This Compact specifies a boundary line fixed by stations of longitude and latitude to eliminate jurisdictional confusion.

The Interstate Boundary Compact only resolved the location of the interstate boundary. One can now determine with certainty whether a particular parcel of property is under the political jurisdiction of California or Arizona. The Compact did not, however, resolve the problem of which bed of the Colorado River at various locations was owned by the two States to mid-channel. As a result of the 1966 Interstate Compact, the title situation became even

more complicated because the political boundary now no longer coincides with the bed of the river owned by the two States. At many points along the river, the political boundary now follows a new channel while the two States each own half of a cut-off channel. Moreover, there are now various locations along the river where California owns half of the riverbed located on the Arizona side of the political boundary, and Arizona owns half of the riverbed located on the California side of the political boundary.

### **IMPORTANCE OF ESTABLISHING THE BOUNDARIES OF THESE SOVEREIGN RIVERBED LANDS**

The fixing of the boundaries of the respective portion of the bed of the Colorado River owned by each State is important not only to California and Arizona but also to the United States and to the citizens of those states who own land near the Colorado River. The United States is the principal riparian landowner along the Colorado River in the vicinity of the interstate boundary. Many of the abandoned loops and oxbows are surrounded by public domain or withdrawn lands of the United States.

As a result, there is a great uncertainty as to land title and boundaries at various locations along the Colorado River. At those locations where the Colorado River has been in a number of different channels over the years, the three governments may each claim a different bed as the bed owned by the two States to mid-channel. Even in those locations where the three governments agree upon a single bed, they may disagree as to the precise location of the bank and mid-channel.

This uncertainty as to the boundaries of the land owned by each government's lands inhibits effective management of the public lands involved. Today the Colorado River is a

major recreational and wildlife area. Definitive fixing of the boundaries of each government's land holdings in the area is essential to the protection of environmental and other values. Furthermore, private land titles along the Colorado River generally are clouded by the claims of one or more governments. Lands along the river are unmarketable because within any given parcel California and Arizona may each claim to own an uncertain number of acres of former riverbeds and the United States may claim lands adjacent to these former riverbeds.

### **THE DAVIS LAKE STUDY**

In an effort to eliminate the uncertainty of title along the Colorado River, the California State Lands Commission has embarked upon an ambitious program of attempting to identify the location of California's sovereign lands along the Colorado River. In September of 1976, the Commission completed a study of an 11.3 mile stretch of the Colorado River, known as the Davis Lake Area. While this study was in progress, California regularly briefed appropriate officials of the State of Arizona and the U.S. Department of Interior on the progress of its boundary study. It has determined with scientific accuracy the location of its sovereign lands in this 11.3 mile stretch of the Colorado River and has attempted to obtain recognition by Arizona and the United States that these are the proper boundaries of California's sovereign lands in the Davis Lake Area. This recognition has not been forthcoming. The only alternative left to California is the filing of this lawsuit to obtain an adjudication that the boundaries identified in California's boundary determination study are the true and correct boundaries of California's sovereign lands in this 11.3 mile stretch of the Colorado River.

## BASIS OF ORIGINAL JURISDICTION

The original jurisdiction of this Court is invoked because full and complete relief between the parties is possible only in this Court. California cannot sue Arizona in any other court, state or federal, because this Court has original and exclusive jurisdiction of all controversies between two or more States. 28 U.S.C. § 1251(a)(1). Since the United States is the principal riparian landowner along the California reach of the Colorado River, joinder of the United States is essential to avoid the possibility of inconsistent boundary determinations in separate actions between the three parties. Under these circumstances, California submits that this case is appropriate for exercise of the "original but not exclusive jurisdiction" over controversies between the United States and a State conferred by 28 U.S.C. § 1251(b)(2).

It has been held that this Court has original jurisdiction over suits in equity brought by the United States against a State to determine the boundary between a State and a territory of the United States. *United States v. Texas*, 143 U.S. 621 (1892). The *Texas* case may properly be read to establish original jurisdiction in suits of equity by a State against the United States to determine the boundary between state and federal lands. In *Minnesota v. Hitchcock*, 185 U.S. 373, 387 (1902), the Court observed that the judicial power of the United States extends to cases in which the United States is a party either as plaintiff or as defendant, stating that "while the United States as a government may not be sued without its consent, yet with its consent it may be sued, and the judicial power of the United States extends to such a controversy." The only impediment to the exercise of such original jurisdiction is consent to sue the United States. See *Arizona v. California*, 298 U.S. 558, 568 (1936); *Kansas v. United States*,

204 U.S. 331, 342 (1907). In the proposed action, Congress has expressly waived sovereign immunity in the federal quiet title statute enacted in 1972. 28 U.S.C. § 2409a.<sup>3</sup>

## THE NEED FOR CONTINUING JURISDICTION

Since the Colorado River is in a relocated position for 50 miles or more and since there are approximately 80 to 90 miles of old channels in the vicinity of the present California-Arizona boundary, it may reasonably be expected that studies of the Colorado River at locations other than the 11.3 mile Davis Lake Area can be expected to reveal similar disagreement between the parties as to the

<sup>3</sup> When the federal quiet title statute was enacted in 1972, section 1346 of Title 28 of the United States Code was amended to add an additional subsection (f) providing that "The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States." It should be pointed out that the enactment of this subsection concurrently with the federal quiet title statute, 28 U.S.C. § 2409a, was not intended to preclude the exercise of original jurisdiction by this Court in any way. The legislative history of the federal quiet title statute contains no reference whatsoever to the original jurisdiction of this Court. The purpose of the amendment to section 1346 was explicitly to negate state court jurisdiction of quiet title actions brought under 28 U.S.C. § 2409a. The Attorney General's letter to the speaker of the House of Representatives, dated October 6, 1971, which was included in the House Report, states:

"Since we believe it is the better policy to litigate questions of the Government's title in the Federal courts, the draft bill provides for exclusive jurisdiction of ~~suits~~ *suits* under the statute in the United States District Courts." House Rep. No. 92-1559, 1972 U.S. Code Cong. Ad. News 4547, 4555.

It is well established that concurrent state court jurisdiction exists unless Congress excludes such concurrent jurisdiction by an express provision making the jurisdiction of federal district courts exclusive. *Charles Dowd Box Co. v. Courtney*, 368 U.S. 502, 508 (1962).

proper position and boundaries of the sovereign riverbed lands owned by the State of California. It is important to eliminate the uncertainty created by conflicting governmental claims as to the location of the boundaries of each government's lands. Therefore, it would appear to be appropriate for this Court to retain jurisdiction to approve further settlements and to resolve any additional boundary disputes where the parties are unable to agree. Such continuing jurisdiction has been reserved in the litigation of offshore boundaries between federal and state lands. *E.g., United States v. Florida*, 425 U.S. 791, 793 (1976) (para. 7); *United States v. Maine*, 423 U.S. 1, 2 (1975) (para. 3); *United States v. California*, 382 U.S. 448, 453 (1966) (paras. 13 & 14).

### CONCLUSION

The uncertainty as to the boundaries of the lands along the Colorado River owned by California, Arizona and the United States is a question of pressing concern to all three governments. Only this Court exercising its original jurisdiction can bring certainty to the confused state of public land boundaries in this area. Therefore, California urges the Court to grant the motion for leave to file the complaint and to permit this lawsuit to go forward in the original jurisdiction.

Respectfully submitted,

EVELLE J. YOUNGER, Attorney General  
of the State of California,  
N. GREGORY TAYLOR,  
Assistant Attorney General,

By

*Russell Iungerich*

RUSSELL IUNGERICH,  
Deputy Attorney General

*Attorneys for Plaintiff  
State of California.*

## IN THE Supreme Court of the United States

October Term, 1977

No. \_\_\_\_\_, Original

---

STATE OF CALIFORNIA,

*Plaintiff,*

vs.

STATE OF ARIZONA and the  
UNITED STATES OF AMERICA,

*Defendants.*

### COMPLAINT

---

The State of California, by its Attorney General, Evelle J. Younger, brings this suit to quiet title to certain portions of the bed and former bed of the Colorado River against the defendants, the State of Arizona and the United States of America, and states the following claim for relief:

#### I.

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2 of the Constitution of the United States and under 28 U.S.C. § 1251.

## II.

Title 28, United States Code, Section 2409a confers the requisite consent to sue the United States in this action to quiet title.

## III.

Upon admission to the Union on September 9, 1850, the State of California became by virtue of its sovereignty the owner in fee simple of the beds of all navigable rivers within its boundaries.

## IV.

Article XII of the California Constitution of 1849 thus described the boundaries of the State of California in relevant part:

“Section 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of 42nd degree of north latitude with the 120th degree of longitude west from Greenwich, and running south on the line of said 120th degree of west longitude until it intersects the 39th degree of north latitude; [\*]thence running in a straight line in a southeasterly direction to the River Colorado, at a point where it intersects the 35th degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May 13, 1848; . . . .” (Emphasis and brackets added.)

The portion of the boundary preceded by the symbol [\*] subsequently became the lower portion of California's boundary with the State of Nevada. For convenience, this border will be referred to hereinafter as the “California-Nevada boundary.” Also, the middle of the channel of the

Colorado River subsequently became California's boundary with the State of Arizona and remained so until a new boundary was fixed by the Interstate Compact Defining the Boundary Between the States of Arizona and California. This Compact was approved by Congress in 1966. Pub.L. 89-531, 80 Stat. 340 (1966).

## V.

At all times relevant to this lawsuit (including the date of California's admission to the Union, September 9, 1850) and at all locations in the vicinity of the southeastern boundary of this State, the Colorado River has been and still is a navigable river of the State of California.

## VI.

At all times material to this lawsuit, the State of California was and now is the owner in fee simple of all lands lying within the bed of the Colorado River as specifically described in Exhibit A to this Complaint. The lands described in Exhibit A shall hereinafter be referred to as the “Davis Lake Area.”

## VII.

Defendant State of Arizona claims some right, title or interest adverse to the State of California in the lands described in paragraph VI above.

## VIII.

Defendant United States of America is the owner of lands riparian to the portion of the Colorado River described in paragraph VI of this Complaint. Federal surveys of those lands indicate a position of the Colorado River which does not coincide with California surveys of its sovereign riverbed lands in the same area.

## IX.

Defendants State of Arizona and the United States of

America have no right, title or interest in or to the lands described in paragraphs V-VIII above, or any part thereof, but title in fee simple to all of these lands is vested in the State of California.

### X.

The claims of the defendants are a cloud upon the title of the State of California which make it impossible for plaintiff to manage, utilize, and otherwise exercise the rights of ownership for the benefit of its citizens in the lands which are the subject of this action. The claims of the defendants thus have caused and will continue to cause plaintiff irreparable injury for which there is no adequate remedy at law.

### XI.

Further studies of the Colorado River at other locations can be expected to reveal similar disagreement as to the proper position of the sovereign riverbed lands owned by the State of California. It would therefore be appropriate for this Court to retain continuing jurisdiction in this case over these additional boundary questions relating to the location of the sovereign lands owned by the States of California and Arizona vis-a-vis the boundaries of adjacent federal lands.

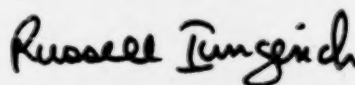
WHEREFORE, plaintiff State of California prays that a decree be entered:

1. Quieting title in the State of California to the lands described in paragraph VI and Exhibit A of this Complaint;
2. Adjudging that the defendants State of Arizona and the United States of America have no right, title or interest in or to these lands or any part thereof as of the date of this decree;

3. Perpetually enjoining the defendants, and each of them, from asserting any right, title or interest in or to these lands, or any part thereof;
4. Retaining jurisdiction to entertain such further proceedings as may be necessary to establish the boundaries of other lands owned by the State of California in the bed or former bed of the Colorado River; authorizing the parties to submit to the Court for its approval any stipulation or stipulations they may enter into settling the boundaries of the lands owned by the parties in or adjacent to the bed of the Colorado River; and specifying that, as to any portion of the bed or former bed of the Colorado River as to which the parties may be unable to agree, any party may apply to the Court for entry of a further and supplemental decree;
5. For plaintiff's costs of suit herein; and
6. For such other and further relief as this Court may deem proper and necessary.

DATED: February 10, 1978.

EVELLE J. YOUNGER, Attorney General  
of the State of California,  
N. GREGORY TAYLOR,  
Assistant Attorney General,

By   
RUSSELL IUNGERICH,  
Deputy Attorney General,  
*Attorneys for Plaintiff  
State of California.*

**EXHIBIT A**

A parcel of land in the former main channel of the Colorado River in Imperial County, California, adjacent to Township 9 South, Range 21 East, San Bernardino Meridian; Township 10 South, Range 21 East, San Bernardino Meridian; Township 10 South, Range 22 East, San Bernardino Meridian; Township 11 South, Range 22 East, San Bernardino Meridian, more particularly described as follows:

Beginning at a point on the center line of the former main channel of the Colorado River having California Coordinate System, Zone 6, coordinates of  $x=2,482,449.14$  and  $y=387,218.39$  (from this point of beginning U.S. Bureau of Reclamation Station RUIN bears N  $56^{\circ} 27' 07''$  E, 733.37 feet); then, from the point of beginning, upstream along the center line of the former main channel, the following 360 courses:

N $06^{\circ} 11' 02''$ E	91.76 feet;
N $54^{\circ} 12' 32''$ E	18.78 feet;
N $12^{\circ} 45' 10''$ E	174.75 feet;
N $12^{\circ} 53' 00''$ W	103.53 feet;
N $05^{\circ} 09' 17''$ W	146.10 feet;
N $13^{\circ} 58' 10''$ E	87.64 feet;
N $05^{\circ} 10' 13''$ W	66.53 feet;
N $23^{\circ} 31' 10''$ E	26.95 feet;
N $36^{\circ} 32' 17''$ E	111.82 feet;
N $19^{\circ} 17' 18''$ W	275.69 feet;
N $04^{\circ} 49' 28''$ W	45.39 feet;
N $25^{\circ} 30' 26''$ W	64.01 feet;
N $21^{\circ} 45' 19''$ W	170.09 feet;
N $02^{\circ} 16' 16''$ E	15.76 feet;

N 26° 25' 14" W 142.77 feet;  
 N 19° 59' 28" W 151.68 feet;  
 N 32° 00' 03" W 345.18 feet;  
 N 03° 24' 14" W 16.15 feet;  
 N 34° 25' 41" W 352.66 feet;  
 N 30° 34' 31" W 260.03 feet;  
 N 36° 46' 58" W 310.64 feet;  
 N 41° 48' 53" W 306.12 feet;  
 N 40° 25' 19" W 290.08 feet;  
 N 44° 30' 49" W 169.94 feet;  
 N 30° 52' 29" W 39.42 feet;  
 N 47° 44' 12" W 40.80 feet;  
 N 21° 30' 40" W 23.17 feet;  
 N 34° 34' 58" W 209.82 feet;  
 N 34° 44' 50" W 317.95 feet;  
 N 34° 44' 47" W 291.32 feet;  
 N 37° 31' 17" W 279.41 feet;  
 N 36° 05' 21" W 275.56 feet;  
 N 37° 39' 47" W 240.96 feet;  
 N 32° 03' 44" W 164.74 feet;  
 N 26° 41' 11" E 14.17 feet;  
 N 37° 08' 14" W 33.36 feet;  
 N 35° 36' 16" W 86.74 feet;  
 N 39° 41' 49" W 66.46 feet;  
 N 37° 12' 59" W 163.13 feet;  
 N 28° 19' 51" W 220.22 feet;  
 N 34° 33' 42" W 149.82 feet;  
 N 39° 16' 54" W 17.91 feet;  
 N 46° 59' 54" W 65.69 feet;  
 N 36° 45' 41" W 175.14 feet;  
 N 30° 48' 13" W 247.89 feet;  
 N 35° 33' 18" W 233.54 feet;  
 N 42° 45' 30" W 301.59 feet;  
 N 29° 31' 50" W 70.64 feet;  
 N 39° 15' 12" W 181.84 feet;

N 34° 08' 26" W 287.28 feet;  
 N 36° 56' 15" W 341.54 feet;  
 N 33° 51' 40" W 248.93 feet;  
 N 30° 53' 53" W 227.36 feet;  
 N 28° 52' 32" W 133.47 feet;  
 N 41° 33' 10" W 32.08 feet;  
 N 32° 30' 33" W 214.79 feet;  
 N 32° 47' 41" W 159.63 feet;  
 N 41° 44' 15" W 149.07 feet;  
 N 51° 38' 10" W 15.67 feet;  
 N 29° 44' 55" W 238.30 feet;  
 N 25° 49' 43" W 111.43 feet;  
 N 09° 13' 34" W 69.07 feet;  
 N 21° 53' 52" W 147.48 feet;  
 N 65° 05' 19" W 9.15 feet;  
 N 32° 30' 38" W 38.27 feet;  
 N 21° 01' 27" W 83.19 feet;  
 N 10° 39' 51" E 44.53 feet;  
 N 02° 15' 38" W 45.67 feet;  
 N 44° 22' 08" W 27.00 feet;  
 N 20° 34' 25" W 93.00 feet;  
 N 18° 23' 16" W 48.78 feet;  
 N 16° 26' 02" W 95.55 feet;  
 N 04° 26' 34" W 49.11 feet;  
 N 08° 54' 12" W 109.59 feet;  
 N 45° 00' 45" W 15.45 feet;  
 N 15° 52' 18" W 46.11 feet;  
 N 23° 50' 06" E 50.55 feet;  
 N 06° 27' 18" W 28.68 feet;  
 N 29° 30' 20" W 14.62 feet;  
 N 15° 29' 04" E 39.92 feet;  
 N 28° 23' 27" E 42.72 feet;  
 N 23° 04' 47" E 132.80 feet;  
 N 47° 17' 33" E 256.64 feet;  
 N 48° 40' 23" E 89.15 feet;

N 52° 50' 14" E 286.63 feet;  
 N 59° 57' 29" E 156.23 feet;  
 N 62° 51' 03" E 103.67 feet;  
 N 60° 52' 13" E 166.51 feet;  
 N 57° 00' 27" E 53.17 feet;  
 N 57° 43' 27" E 326.93 feet;  
 N 68° 38' 25" E 38.74 feet;  
 N 45° 44' 50" E 25.05 feet;  
 N 60° 53' 25" E 148.11 feet;  
 N 52° 28' 50" E 136.72 feet;  
 N 53° 48' 33" E 194.46 feet;  
 N 53° 11' 16" E 49.55 feet;  
 N 80° 15' 07" E 22.12 feet;  
 N 50° 13' 23" E 181.66 feet;  
 N 69° 57' 50" E 40.08 feet;  
 N 34° 56' 12" E 24.41 feet;  
 N 50° 47' 14" E 202.15 feet;  
 N 61° 59' 40" E 50.34 feet;  
 N 47° 49' 50" E 49.76 feet;  
 N 48° 09' 42" E 163.97 feet;  
 N 50° 09' 37" E 112.15 feet;  
 N 27° 22' 23" E 134.94 feet;  
 N 47° 51' 44" E 124.47 feet;  
 N 46° 01' 44" E 142.53 feet;  
 N 39° 04' 50" E 180.94 feet;  
 N 45° 09' 21" E 189.68 feet;  
 N 39° 57' 52" E 156.08 feet;  
 N 43° 26' 27" E 199.19 feet;  
 N 52° 12' 27" E 221.41 feet;  
 N 50° 29' 55" E 152.42 feet;  
 N 52° 54' 27" E 179.48 feet;  
 N 62° 15' 35" E 213.37 feet;  
 N 68° 45' 32" E 55.26 feet;  
 N 67° 29' 40" E 76.60 feet;  
 N 65° 41' 07" E 165.43 feet;

N 67° 14' 09" E 294.39 feet;  
 N 64° 24' 36" E 128.78 feet;  
 N 53° 03' 32" E 106.15 feet;  
 N 70° 17' 39" E 35.29 feet;  
 N 73° 29' 13" E 147.47 feet;  
 N 59° 19' 13" E 74.01 feet;  
 N 30° 28' 52" E 18.53 feet;  
 N 60° 22' 22" E 71.20 feet;  
 N 18° 45' 56" E 28.50 feet;  
 N 39° 20' 12" E 181.32 feet;  
 N 15° 18' 44" E 22.87 feet;  
 N 34° 48' 05" E 113.34 feet;  
 N 01° 37' 33" E 25.20 feet;  
 N 20° 03' 20" E 279.59 feet;  
 N 08° 48' 55" E 494.65 feet;  
 N 06° 07' 16" W 329.64 feet;  
 N 01° 08' 01" W 46.25 feet;  
 N 12° 04' 58" W 216.22 feet;  
 N 02° 16' 55" E 41.56 feet;  
 N 12° 25' 25" W 199.17 feet;  
 N 27° 14' 52" W 38.46 feet;  
 N 20° 48' 06" W 242.26 feet;  
 N 19° 51' 45" W 337.38 feet;  
 N 24° 07' 19" W 226.77 feet;  
 N 27° 31' 47" W 169.08 feet;  
 N 25° 20' 37" W 190.07 feet;  
 N 27° 40' 18" W 329.72 feet;  
 N 28° 56' 10" W 330.72 feet;  
 N 24° 33' 34" W 60.51 feet;  
 N 29° 27' 35" W 208.29 feet;  
 N 28° 05' 26" W 247.46 feet;  
 N 23° 44' 10" W 163.83 feet;  
 N 13° 09' 48" W 254.49 feet;  
 N 19° 22' 18" W 307.39 feet;  
 N 21° 47' 25" W 159.63 feet;  
 N 30° 33' 33" W 99.94 feet;

N 29° 12' 13" W 207.55 feet;  
 N 31° 55' 33" W 235.86 feet;  
 N 28° 51' 47" W 106.13 feet;  
 N 36° 40' 00" W 174.32 feet;  
 N 02° 47' 21" E 19.11 feet;  
 N 43° 43' 57" W 240.40 feet;  
 N 41° 01' 16" W 304.70 feet;  
 N 46° 54' 46" W 122.65 feet;  
 N 40° 49' 49" W 90.29 feet;  
 N 51° 59' 40" W 174.20 feet;  
 N 44° 21' 26" W 78.79 feet;  
 N 54° 41' 29" W 220.08 feet;  
 N 53° 16' 11" W 329.75 feet;  
 N 61° 51' 41" W 110.58 feet;  
 N 52° 54' 43" W 215.67 feet;  
 N 58° 08' 36" W 153.28 feet;  
 N 59° 29' 55" W 174.49 feet;  
 N 56° 21' 47" W 191.68 feet;  
 S 89° 23' 45" W 20.87 feet;  
 N 62° 40' 51" W 144.58 feet;  
 N 60° 27' 35" W 329.61 feet;  
 N 58° 43' 43" W 350.72 feet;  
 N 49° 48' 54" W 206.44 feet;  
 N 71° 14' 37" W 266.43 feet;  
 N 67° 56' 20" W 72.52 feet;  
 N 64° 05' 13" W 230.11 feet;  
 N 68° 36' 52" W 337.96 feet;  
 N 66° 46' 07" W 60.86 feet;  
 N 57° 31' 28" W 62.02 feet;  
 N 69° 12' 17" W 194.71 feet;  
 N 74° 52' 18" W 51.54 feet;  
 N 60° 10' 12" W 91.32 feet;  
 N 72° 23' 57" W 284.72 feet;  
 N 66° 43' 26" W 289.75 feet;  
 N 71° 49' 29" W 317.90 feet;

N 69° 12' 03" W 238.91 feet;  
 N 64° 15' 14" W 72.27 feet;  
 S 65° 27' 32" W 40.27 feet;  
 N 74° 15' 53" W 194.46 feet;  
 N 73° 49' 49" W 290.50 feet;  
 N 72° 33' 14" W 374.10 feet;  
 N 67° 46' 21" W 342.36 feet;  
 N 57° 56' 05" W 76.94 feet;  
 N 87° 47' 11" W 87.90 feet;  
 N 72° 42' 55" W 288.96 feet;  
 N 71° 19' 03" W 300.30 feet;  
 N 80° 29' 32" W 203.62 feet;  
 S 89° 12' 33" W 61.22 feet;  
 N 70° 29' 19" W 104.61 feet;  
 N 79° 25' 58" W 67.02 feet;  
 N 80° 35' 31" W 373.72 feet;  
 N 80° 52' 09" W 380.68 feet;  
 N 77° 30' 29" W 200.60 feet;  
 S 80° 07' 35" W 41.78 feet;  
 N 68° 08' 20" W 43.73 feet;  
 N 82° 47' 20" W 337.50 feet;  
 N 78° 02' 35" W 194.88 feet;  
 N 77° 39' 54" W 170.67 feet;  
 N 77° 07' 59" W 330.55 feet;  
 N 79° 02' 44" W 201.15 feet;  
 N 70° 18' 48" W 173.92 feet;  
 N 78° 14' 27" W 273.38 feet;  
 N 86° 10' 16" W 121.38 feet;  
 N 56° 59' 20" W 23.64 feet;  
 N 77° 12' 59" W 426.70 feet;  
 N 83° 15' 03" W 185.75 feet;  
 N 73° 51' 47" W 182.15 feet;  
 N 71° 13' 45" W 167.21 feet;  
 S 75° 37' 59" W 30.89 feet;  
 N 71° 33' 44" W 234.05 feet;  
 N 80° 43' 52" W 137.24 feet;

N 69° 41' 51" W 273.22 feet;  
 N 70° 43' 07" W 254.91 feet;  
 N 66° 56' 08" W 301.42 feet;  
 N 63° 53' 15" W 256.28 feet;  
 N 58° 33' 26" W 202.83 feet;  
 N 61° 51' 11" W 184.76 feet;  
 N 52° 03' 07" W 236.22 feet;  
 N 59° 50' 41" W 424.43 feet;  
 N 57° 02' 33" W 230.68 feet;  
 N 48° 19' 51" W 103.33 feet;  
 N 40° 22' 48" W 238.16 feet;  
 N 27° 29' 10" W 445.07 feet;  
 N 27° 28' 12" W 417.56 feet;  
 N 23° 53' 28" W 462.72 feet;  
 N 20° 07' 44" W 182.40 feet;  
 N 02° 09' 48" W 110.47 feet;  
 N 45° 05' 17" W 66.80 feet;  
 N 24° 47' 08" W 167.79 feet;  
 N 04° 37' 48" E 25.09 feet;  
 N 25° 09' 10" W 194.51 feet;  
 N 47° 03' 42" W 36.76 feet;  
 N 23° 12' 08" W 208.06 feet;  
 N 31° 51' 35" W 213.36 feet;  
 N 25° 18' 01" W 275.95 feet;  
 N 22° 57' 02" W 335.59 feet;  
 N 35° 58' 44" W 89.13 feet;  
 N 24° 17' 16" W 160.88 feet;  
 N 75° 21' 26" W 17.52 feet;  
 N 27° 01' 17" W 188.36 feet;  
 N 13° 08' 58" W 227.87 feet;  
 N 40° 21' 42" W 136.76 feet;  
 N 24° 24' 56" W 197.69 feet;  
 N 23° 37' 41" W 184.07 feet;  
 N 26° 21' 53" W 373.91 feet;  
 N 39° 13' 30" W 285.83 feet;  
 N 23° 37' 13" W 44.79 feet;

N 32° 55' 17" W 111.43 feet;  
 N 70° 24' 21" W 45.64 feet;  
 N 38° 36' 29" W 28.58 feet;  
 N 27° 45' 40" W 98.67 feet;  
 N 46° 12' 44" W 44.96 feet;  
 N 24° 49' 30" W 178.43 feet;  
 N 05° 35' 47" E 26.71 feet;  
 N 22° 59' 42" W 38.82 feet;  
 N 10° 02' 49" E 30.61 feet;  
 N 19° 34' 05" W 114.65 feet;  
 N 05° 33' 59" E 13.45 feet;  
 N 12° 59' 57" W 110.34 feet;  
 N 01° 10' 59" E 216.95 feet;  
 N 07° 13' 33" E 110.78 feet;  
 N 06° 00' 55" E 131.88 feet;  
 N 12° 01' 16" E 173.06 feet;  
 N 04° 06' 19" W 44.77 feet;  
 N 34° 06' 19" E 126.69 feet;  
 N 40° 46' 38" E 329.61 feet;  
 N 27° 01' 26" E 173.94 feet;  
 N 46° 34' 13" E 311.34 feet;  
 N 46° 36' 53" E 361.75 feet;  
 N 57° 24' 33" E 118.71 feet;  
 N 52° 19' 49" E 242.35 feet;  
 N 47° 03' 21" E 177.59 feet;  
 N 52° 11' 08" E 276.80 feet;  
 N 52° 23' 33" E 387.60 feet;  
 N 39° 39' 32" E 300.47 feet;  
 N 24° 24' 38" E 351.30 feet;  
 N 18° 55' 03" E 170.32 feet;  
 N 16° 04' 01" E 220.64 feet;  
 N 27° 29' 02" E 177.93 feet;  
 N 33° 39' 19" E 182.00 feet;  
 N 44° 33' 29" E 266.80 feet;  
 N 37° 44' 11" E 162.18 feet;  
 N 39° 45' 24" E 191.62 feet;

N 44° 11' 35" E 141.82 feet;  
 N 49° 35' 13" E 289.05 feet;  
 N 67° 47' 17" E 434.12 feet;  
 N 50° 05' 56" E 187.21 feet;  
 N 53° 46' 23" E 313.82 feet;  
 N 57° 52' 30" E 229.52 feet;  
 N 34° 44' 43" E 240.98 feet;  
 N 13° 51' 35" E 139.72 feet;  
 N 30° 29' 51" E 218.39 feet;  
 N 09° 00' 09" E 310.43 feet;  
 N 03° 29' 17" E 364.22 feet;  
 N 21° 07' 35" E 112.02 feet;  
 N 29° 12' 12" E 287.05 feet;  
 N 20° 42' 27" E 228.91 feet;  
 N 29° 48' 32" E 229.97 feet;  
 N 22° 32' 45" E 137.24 feet;  
 N 17° 50' 56" E 279.36 feet;  
 N 30° 08' 37" E 385.03 feet;  
 N 21° 04' 23" E 341.84 feet;  
 N 01° 03' 52" E 378.09 feet;  
 N 17° 08' 36" E 344.16 feet;  
 N 22° 01' 25" E 204.91 feet;  
 N 05° 52' 13" W 154.95 feet;  
 N 27° 21' 49" E 242.39 feet;  
 N 09° 01' 04" E 393.07 feet;  
 N 14° 50' 01" E 304.17 feet;  
 N 01° 28' 58" E 71.48 feet;  
 N 02° 08' 33" E 176.53 feet;  
 N 01° 57' 51" W 319.75 feet;  
 N 01° 20' 24" W 243.11 feet;  
 N 09° 08' 02" E 139.88 feet;  
 N 13° 07' 32" W 209.36 feet;  
 N 06° 26' 13" W 175.51 feet;  
 N 05° 37' 45" W 293.41 feet;  
 N 06° 34' 59" W 217.59 feet;  
 N 07° 47' 48" W 290.66 feet;

N 10° 41' 30" W 267.70 feet;  
 N 04° 47' 01" W 72.08 feet;  
 N 14° 28' 47" W 234.20 feet;  
 N 00° 19' 43" W 116.62 feet;  
 N 07° 44' 46" W 279.97 feet;  
 N 11° 32' 18" W 356.71 feet;  
 N 11° 07' 49" W 213.28 feet;  
 N 14° 30' 09" W 272.42 feet;  
 N 06° 36' 37" W 286.80 feet;  
 N 08° 28' 38" W 238.45 feet;  
 N 17° 03' 04" W 151.67 feet;  
 N 09° 18' 29" W 342.55 feet;  
 N 14° 40' 23" W 256.29 feet;  
 N 14° 18' 03" W 363.43 feet;  
 N 11° 45' 38" E 206.67 feet;  
 N 41° 54' 52" E 321.85 feet;  
 N 63° 25' 44" E 273.18 feet;  
 S 74° 04' 12" E 474.64 feet;  
 N 88° 03' 52" E 416.71 feet;  
 S 66° 20' 00" E 572.97 feet;  
 S 80° 24' 37" E 222.10 feet;  
 S 89° 46' 40" E 349.53 feet;  
 N 82° 26' 19" E 391.23 feet;  
 N 66° 00' 59" E 497.08 feet;

N 58° 38' 57" E 346.59 feet to a point having California Coordinate System, Zone 6, coordinates of  $x=2,472,602.51$  and  $y=432,522.18$  (from this point Angle Point 3 of the U.S. Bureau of Land Management Meander Survey of 1961 bears S 26° 27' 02" W, 395.71 feet);

then, continuing along the center line of the former main channel from the point having coordinates of  $x=2,472,602.51$  and  $y=432,522.18$ , N 58° 38' 57" E, 290 feet more or less to the easterly boundary of the parcel of land taken by

the federal government by condemnation in *United States v. 243.25 Acres of Land*, Civil No. 3505-SD-Smith (S.D. Cal. 1973); then northerly along the easterly boundary of the parcel of land taken by the federal government in *United States v. 243.25 Acres of Land*, Civil No. 3505-SD-Smith (S.D. Cal. 1973); 290 feet more or less to the right bank of the former main channel of the Colorado River;

then, along the right bank of the former main channel, S 47° 59' 19" W, 80 feet more or less to a point having California Coordinate System, Zone 6, coordinates of  $x=2,472,821.00$  and  $y=432,897.00$  (from this point, California State Lands Commission Monument PI-14 bears N 31° 03' 15" E, 678.73 feet);

then, continuing along the right bank of the former main channel from the point having coordinates of  $x=2,472,821.00$  and  $y=432,897.00$ , the following 13 courses:

S 60° 07' 46" W	395.55 feet;
S 63° 03' 23" W	406.08 feet;
S 82° 42' 48" W	307.48 feet;
N 87° 47' 25" W	311.23 feet;
N 73° 24' 25" W	206.60 feet;
N 58° 24' 42" W	393.27 feet;
N 67° 05' 29" W	259.46 feet;
S 84° 46' 40" W	186.77 feet;
S 73° 38' 32" W	305.36 feet;
N 68° 41' 39" W	214.67 feet;
N 85° 22' 33" W	272.89 feet;
S 75° 15' 23" W	216.12 feet;
S 50° 14' 50" W	139.18 feet to a point

having California Coordinate System, Zone 6,

coordinates of  $x=2,469,461.00$  and  $y=432,708.00$  (from this point California State Lands Commission Monument PI-15 bears N 85° 44' 43" W, 225.50 feet);

then, continuing along the right bank of the former main channel from the point having coordinates of  $x=2,469,461.00$  and  $y=432,708.00$  the following 24 courses:

S 43° 55' 50" W	265.21 feet;
S 46° 19' 31" W	275.14 feet;
S 15° 12' 01" W	206.91 feet;
S 26° 13' 45" E	157.09 feet;
S 19° 00' 46" E	279.67 feet;
S 29° 05' 57" E	98.41 feet;
S 18° 06' 17" E	215.54 feet;
S 06° 52' 21" E	382.84 feet;
S 05° 18' 02" E	273.86 feet;
S 08° 14' 28" E	324.68 feet;
S 13° 16' 00" E	308.30 feet;
S 09° 19' 42" E	216.36 feet;
S 11° 35' 03" E	320.30 feet;
S 11° 28' 13" E	332.14 feet;
S 09° 04' 11" E	307.35 feet;
S 08° 25' 33" E	354.06 feet;
S 06° 56' 06" E	296.42 feet;
S 03° 22' 45" E	213.77 feet;
S 02° 39' 03" E	239.35 feet;
S 04° 33' 10" W	161.13 feet;
S 00° 07' 35" W	204.17 feet;
S 07° 30' 37" W	133.89 feet;
S 05° 54' 40" W	135.84 feet;

S 03° 55' 45" W 129.89 feet to a point having California Coordinate System coordinates of  $x=2,469,759.130$  and  $y=427,141.45$

(from this point Meander Corner AP-5 U.S. Bureau of Land Management plat, 1961, Township 10 South, Range 21 East, San Bernardino Meridian bears S 09° 02' 21" W, 40.29 feet;

then, continuing along the right bank of the former main channel from the point having coordinates  $x=2,469,759.13$  and  $y=427,141.45$ , the following 3 courses:

S 05° 01' 18" W 137.21 feet;

S 08° 04' 10" W 162.78 feet;

S 00° 03' 07" E 187.77 feet to a point having California Coordinate System coordinates of  $x=2,469,724.44$  and  $y=426,655.83$ . From this point Meander Corner AP-6, U.S. Bureau of Land Management plat, 1961, Township 10 S, Range 21 East, San Bernardino Meridian bears S 24° 41' 06" W, 69.66 feet;

then, continuing along the right bank of the former main channel from the point having coordinates  $x=2,469,724.44$  and  $y=426,655.83$ , the following 42 courses:

S 18° 25' 07" W 145.14 feet;  
 S 38° 13' 19" W 148.16 feet;  
 S 27° 59' 24" W 93.52 feet;  
 S 14° 07' 33" W 163.08 feet;  
 S 21° 58' 55" W 91.95 feet;  
 S 39° 23' 38" W 122.98 feet;  
 S 45° 43' 52" W 181.24 feet;  
 S 43° 14' 36" W 142.55 feet;  
 S 08° 34' 00" W 37.86 feet;  
 S 54° 06' 48" W 248.93 feet;  
 S 43° 45' 04" W 133.34 feet;  
 S 38° 11' 14" W 119.87 feet;  
 S 37° 36' 00" W 114.41 feet;

S 37° 56' 16" W 79.31 feet;  
 S 01° 14' 41" E 81.49 feet;  
 S 00° 55' 20" W 135.45 feet;  
 S 05° 40' 15" W 107.68 feet;  
 S 22° 15' 14" W 82.75 feet;  
 S 13° 31' 08" E 93.77 feet;  
 S 25° 35' 17" W 88.91 feet;  
 S 03° 11' 05" E 89.46 feet;  
 S 44° 07' 44" W 35.34 feet;  
 S 09° 52' 27" E 117.33 feet;  
 S 19° 41' 13" E 84.66 feet;  
 S 29° 11' 46" W 62.94 feet;  
 S 08° 09' 22" E 99.31 feet;  
 S 11° 31' 17" E 65.39 feet;  
 S 18° 44' 22" E 132.69 feet;  
 S 13° 55' 43" E 116.20 feet;  
 S 19° 34' 51" E 97.09 feet;  
 S 19° 21' 04" E 71.58 feet;  
 S 67° 34' 09" E 40.57 feet;  
 S 16° 51' 42" W 86.15 feet;  
 S 10° 11' 24" W 94.11 feet;  
 S 12° 40' 34" W 144.28 feet;  
 S 05° 14' 17" W 111.95 feet;  
 S 12° 36' 31" W 64.64 feet;  
 S 18° 56' 40" W 100.97 feet;  
 S 18° 49' 49" W 96.73 feet;  
 S 21° 19' 07" W 114.84 feet;  
 S 20° 13' 31" W 259.12 feet;

S 22° 08' 02" W 123.18 feet to a point having California Coordinate System coordinates of  $x=2,468,462.67$  and  $y=422,569.31$  (from this point Meander Corner AP-18, U.S. Bureau of Land Management plat, 1961, Township 10 South, Range 21 East, San Bernardino Meridian, bears S 58° 56' 25" W, 42.18 feet); then,

continuing along the right bank of the former main channel from the point having coordinates  $x=2,468,462.67$  and  $y=422,569.31$  the following 7 courses:

S 29° 22' 56" W 178.26 feet;  
 S 28° 32' 26" W 173.20 feet;  
 S 30° 23' 15" W 95.32 feet;  
 S 37° 28' 44" E 22.20 feet;  
 S 17° 54' 42" W 65.09 feet;  
 S 57° 40' 51" W 24.58 feet;

S 28° 02' 25" W 112.38 feet to a point having coordinates of  $x=2,468,164.13$  and  $y=421,987.71$  (from this point California State Lands Commission Monument RB-RP1 bears N 44° 53' 39" W, 19.13 feet); then, from the point having coordinates of  $x=2,468,164.13$  and  $y=421,987.71$ , continuing along the right bank of the former main channel the following 52 courses:

S 73° 52' 17" W 68.29 feet;  
 S 75° 56' 35" W 153.53 feet;  
 S 66° 52' 10" W 91.74 feet;  
 S 74° 09' 07" W 85.76 feet;  
 S 60° 27' 03" W 109.96 feet;  
 S 64° 54' 09" W 123.47 feet;  
 S 82° 27' 49" W 25.39 feet;  
 S 70° 23' 42" W 85.03 feet;  
 S 76° 29' 15" W 111.15 feet;  
 S 66° 20' 56" W 78.82 feet;  
 S 75° 31' 52" W 78.40 feet;  
 S 68° 33' 16" W 82.24 feet;  
 S 57° 31' 42" W 91.96 feet;  
 S 46° 19' 59" W 182.69 feet;  
 S 35° 54' 41" W 90.38 feet;  
 S 22° 54' 15" W 74.59 feet;

S 06° 17' 52" E 88.24 feet;  
 S 44° 34' 09" W 27.27 feet;  
 S 11° 10' 33" E 73.73 feet;  
 S 43° 26' 13" W 41.48 feet;  
 S 16° 56' 18" W 79.18 feet;  
 S 10° 10' 13" W 79.29 feet;  
 S 12° 17' 42" E 61.14 feet;  
 S 02° 28' 39" E 43.72 feet;  
 S 24° 38' 57" W 87.35 feet;  
 S 07° 11' 05" W 83.39 feet;  
 S 20° 38' 25" E 15.94 feet;  
 S 61° 58' 45" W 19.54 feet;  
 S 24° 36' 47" W 52.13 feet;  
 S 32° 47' 02" W 152.42 feet;  
 S 00° 18' 47" W 31.10 feet;  
 S 33° 50' 30" W 210.50 feet;  
 S 30° 44' 49" W 257.13 feet;  
 S 20° 07' 05" W 105.51 feet;  
 S 14° 11' 59" W 95.19 feet;  
 S 37° 18' 47" W 105.51 feet;  
 S 21° 43' 01" W 166.15 feet;  
 S 25° 27' 10" W 129.93 feet;  
 S 23° 01' 18" W 23.81 feet;  
 S 37° 50' 46" W 128.66 feet;  
 S 45° 44' 28" W 134.46 feet;  
 S 50° 20' 57" W 174.53 feet;  
 S 51° 44' 15" W 215.11 feet;  
 S 53° 38' 18" W 226.82 feet;  
 S 50° 40' 12" W 274.54 feet;  
 S 51° 09' 15" W 199.72 feet;  
 S 49° 20' 43" W 181.24 feet;  
 S 50° 59' 50" W 209.74 feet;  
 S 48° 45' 20" W 176.07 feet;  
 S 36° 29' 29" W 162.25 feet;  
 S 50° 15' 37" W 65.71 feet;

S 40° 53' 51" W 54.96 feet to a point having coordinates of  $x=2,464,492.52$  and  $y=418,031.92$  (from this point U.S. Bureau of Reclamation Station DAVIS bears N 55° 11' 00" W, 687.55 feet).

Then, from the point having coordinates of  $x=2,464,492.52$  and  $y=418,031.92$ , continuing along the right bank of the former main channel the following 63 courses:

S 05° 03' 31" E	57.27 feet;
S 01° 19' 17" W	68.51 feet;
S 13° 23' 54" W	69.70 feet;
S 47° 00' 10" W	102.79 feet;
S 39° 26' 06" W	118.78 feet;
S 35° 17' 26" W	133.16 feet;
S 31° 40' 42" W	118.82 feet;
S 01° 08' 09" W	77.17 feet;
S 33° 09' 52" E	14.51 feet;
S 22° 39' 21" W	95.77 feet;
S 05° 32' 52" W	127.02 feet;
S 22° 31' 36" W	43.56 feet;
S 00° 44' 38" E	53.14 feet;
S 18° 06' 45" E	43.81 feet;
S 08° 07' 06" W	61.68 feet;
S 47° 21' 15" W	11.70 feet;
S 09° 02' 24" W	77.39 feet;
S 02° 32' 27" W	133.99 feet;
S 08° 16' 00" E	116.84 feet;
S 21° 16' 50" E	79.24 feet;
S 05° 33' 59" W	26.91 feet;
S 25° 41' 52" E	76.24 feet;
S 10° 02' 49" W	61.22 feet;
S 22° 59' 42" E	77.64 feet;
S 05° 35' 47" W	53.42 feet;

S 19° 17' 00" E	81.15 feet;
S 28° 44' 01" E	98.45 feet;
S 46° 12' 44" E	89.91 feet;
S 00° 54' 42" E	38.96 feet;
S 38° 36' 29" E	57.16 feet;
S 70° 24' 21" E	91.28 feet;
S 23° 37' 13" E	89.57 feet;
S 32° 17' 14" E	170.27 feet;
S 22° 34' 09" E	179.89 feet;
S 19° 52' 01" E	161.22 feet;
S 10° 45' 08" E	150.08 feet;
S 19° 26' 18" E	188.71 feet;
S 22° 08' 60" E	187.41 feet;
S 29° 58' 22" E	202.91 feet;
S 22° 45' 08" E	214.61 feet;
S 28° 14' 06" E	224.50 feet;
S 75° 21' 26" E	35.05 feet;
S 06° 53' 21" W	31.35 feet;
S 38° 50' 29" E	73.95 feet;
S 33° 57' 12" E	104.47 feet;
S 10° 37' 44" E	105.61 feet;
S 21° 52' 27" E	165.04 feet;
S 24° 30' 08" E	342.15 feet;
S 26° 07' 31" E	224.28 feet;
S 26° 00' 19" E	171.65 feet;
S 47° 03' 42" E	73.52 feet;
S 22° 51' 02" E	179.82 feet;
S 04° 37' 48" W	50.17 feet;
S 27° 58' 13" E	111.98 feet;
S 45° 05' 17" E	133.59 feet;
S 09° 12' 54" W	49.89 feet;
S 23° 46' 02" E	206.79 feet;
S 20° 19' 41" E	209.44 feet;
S 18° 05' 12" E	233.53 feet;
S 26° 51' 02" E	250.32 feet;

S 23° 56' 13" E 170.97 feet;

S 29° 41' 34" E 147.69 feet;

S 11° 42' 23" E 98.92 feet to a point

having California Coordinate System coordinates of  $x=2,466,458.57$  and  $y=411,496.20$  (from this point U.S. Bureau of Reclamation Station WRS-21 bears S 84° 03' 03" W, 364.22 feet); then, from the point having coordinates  $x=2,466,458.57$  and  $y=411,496.20$ , continuing along the right bank of the former main channel, the following 43 courses:

S 32° 35' 31" E 124.16 feet;  
 S 30° 53' 45" E 120.22 feet;  
 S 43° 07' 02" E 256.53 feet;  
 S 48° 19' 51" E 206.65 feet;  
 S 67° 52' 30" E 183.87 feet;  
 S 71° 21' 51" E 126.25 feet;  
 S 61° 15' 46" E 196.34 feet;  
 S 54° 59' 08" E 212.50 feet;  
 S 55° 04' 36" E 191.73 feet;  
 S 61° 25' 23" E 161.91 feet;  
 S 52° 43' 26" E 189.30 feet;  
 S 62° 32' 05" E 229.42 feet;  
 S 24° 40' 26" W 24.12 feet;  
 S 31° 03' 06" E 16.75 feet;  
 N 51° 04' 31" E 31.74 feet;  
 S 66° 58' 16" E 156.62 feet;  
 S 63° 57' 36" E 190.86 feet;  
 S 70° 39' 01" E 283.46 feet;  
 S 67° 09' 09" E 279.08 feet;  
 N 79° 03' 56" E 50.29 feet;  
 S 71° 21' 30" E 97.26 feet;  
 N 77° 39' 39" E 196.21 feet;  
 S 72° 52' 22" E 211.01 feet;

S 71° 11' 05" E 169.14 feet;

N 88° 21' 14" E 132.27 feet;

S 79° 17' 01" E 190.11 feet;

S 75° 43' 12" E 311.68 feet;

S 56° 59' 20" E 47.28 feet;

N 79° 03' 56" E 33.53 feet;

S 76° 25' 43" E 351.79 feet;

S 61° 59' 02" E 99.95 feet;

S 78° 10' 25" E 224.11 feet;

S 79° 43' 39" E 181.74 feet;

S 78° 05' 30" E 151.35 feet;

S 75° 07' 34" E 191.59 feet;

S 81° 32' 25" E 212.22 feet;

S 78° 59' 26" E 180.24 feet;

S 87° 17' 16" E 140.12 feet;

S 68° 08' 20" E 87.47 feet;

N 80° 07' 35" E 83.57 feet;

S 80° 39' 14" E 136.27 feet;

S 80° 14' 07" E 129.24 feet;

N 89° 51' 28" E 84.66 feet to a point

having California Coordinate System coordinates of  $x=2,472,666.67$  and  $y=409,132.72$  (from this point California State Lands Commission Monument PI-6 bears S 0° 52' 36" E, 20.26 feet);

then, from the point having coordinates  $x=2,472,666.67$  and  $y=409,132.72$ , continuing along the right bank of the former main channel the following 135 courses:

S 74° 54' 00" E 176.62 feet;

S 82° 02' 39" E 367.54 feet;

S 75° 07' 50" E 194.45 feet;

S 77° 03' 15" E 126.41 feet;

S 88° 35' 09" E 116.29 feet;

S 52° 37' 55" E 40.94 feet;

S 75° 26' 59" E 219.84 feet;

S 71° 50' 24" E 171.30 feet;  
 S 74° 19' 52" E 112.38 feet;  
 S 80° 35' 13" E 99.54 feet;  
 S 54° 33' 37" E 76.93 feet;  
 S 66° 36' 41" E 125.83 feet;  
 S 63° 17' 39" E 121.85 feet;  
 S 70° 01' 49" E 113.11 feet;  
 S 72° 40' 28" E 355.44 feet;  
 S 72° 44' 56" E 272.15 feet;  
 S 76° 31' 58" E 278.42 feet;  
 S 70° 49' 35" E 238.47 feet;  
 S 70° 17' 22" E 299.32 feet;  
 S 68° 27' 11" E 309.01 feet;  
 S 72° 00' 50" E 312.35 feet;  
 S 53° 14' 15" E 54.49 feet;  
 S 74° 52' 18" E 103.07 feet;  
 S 66° 22' 25" E 160.16 feet;  
 S 31° 14' 08" E 22.41 feet;  
 S 68° 46' 07" E 121.72 feet;  
 S 69° 49' 10" E 306.13 feet;  
 S 66° 14' 00" E 322.42 feet;  
 S 63° 00' 21" E 301.63 feet;  
 S 58° 19' 24" E 137.83 feet;  
 S 64° 23' 36" E 374.30 feet;  
 S 58° 39' 16" E 183.74 feet;  
 S 64° 07' 26" E 125.36 feet;  
 S 40° 17' 37" E 24.04 feet;  
 S 63° 33' 22" E 124.65 feet;  
 S 55° 37' 48" E 257.52 feet;  
 S 68° 31' 00" E 87.95 feet;  
 S 56° 32' 33" E 149.69 feet;  
 S 57° 13' 54" E 219.68 feet;  
 S 52° 33' 43" E 91.99 feet;  
 S 75° 39' 40" E 30.77 feet;  
 S 51° 17' 24" E 169.35 feet;

S 54° 59' 34" E 156.48 feet;  
 S 50° 10' 27" E 260.94 feet;  
 S 49° 36' 24" E 258.49 feet;  
 S 44° 34' 13" E 163.10 feet;  
 S 37° 26' 05" E 300.23 feet;  
 S 42° 48' 59" E 170.19 feet;  
 S 33° 29' 47" E 265.71 feet;  
 S 33° 01' 00" E 255.36 feet;  
 S 29° 18' 07" E 246.50 feet;  
 S 33° 35' 14" E 95.73 feet;  
 S 20° 47' 02" E 113.97 feet;  
 S 20° 23' 07" E 207.22 feet;  
 S 10° 30' 21" E 96.42 feet;  
 S 13° 36' 45" E 235.13 feet;  
 S 19° 38' 33" E 122.74 feet;  
 S 25° 57' 07" E 104.91 feet;  
 S 27° 15' 17" E 228.13 feet;  
 S 36° 19' 37" E 128.72 feet;  
 S 24° 33' 34" E 121.02 feet;  
 S 29° 04' 39" E 145.68 feet;  
 S 26° 59' 27" E 265.97 feet;  
 S 25° 47' 03" E 364.93 feet;  
 S 18° 56' 14" E 81.90 feet;  
 S 30° 01' 37" E 91.68 feet;  
 S 24° 08' 33" E 324.37 feet;  
 S 21° 12' 50" E 302.39 feet;  
 S 26° 21' 17" E 109.66 feet;  
 S 17° 44' 09" E 132.95 feet;  
 S 14° 17' 33" E 225.66 feet;  
 S 08° 53' 11" E 181.58 feet;  
 S 01° 08' 01" E 92.51 feet;  
 S 05° 10' 25" E 229.55 feet;  
 S 02° 20' 32" W 225.35 feet;  
 S 09° 55' 39" W 285.43 feet;  
 S 17° 15' 36" W 182.74 feet;

S 29° 35' 16" W	206.26 feet;
S 48° 34' 54" W	89.53 feet;
S 29° 53' 54" W	25.92 feet;
S 55° 42' 59" W	87.01 feet;
S 58° 29' 32" W	160.39 feet;
S 70° 17' 39" W	70.58 feet;
S 28° 05' 41" W	24.12 feet;
S 59° 51' 29" W	189.03 feet;
S 62° 57' 39" W	223.71 feet;
S 64° 45' 22" W	238.58 feet;
S 72° 24' 32" W	120.87 feet;
S 74° 01' 43" W	209.44 feet;
S 62° 02' 47" W	114.79 feet;
S 51° 08' 47" W	103.88 feet;
S 62° 43' 50" W	92.41 feet;
S 51° 59' 13" W	91.73 feet;
S 60° 56' 16" W	86.32 feet;
S 52° 37' 08" W	127.52 feet;
S 44° 13' 20" W	77.10 feet;
S 60° 18' 50" W	37.54 feet;
S 38° 16' 26" W	138.68 feet;
S 37° 38' 42" W	164.38 feet;
S 48° 34' 45" W	55.50 feet;
S 40° 20' 01" W	92.13 feet;
S 48° 03' 08" W	84.46 feet;
S 38° 00' 13" W	106.35 feet;
S 40° 41' 44" W	182.11 feet;
S 63° 24' 48" W	59.14 feet;
S 19° 21' 23" W	127.23 feet;
S 43° 30' 28" W	100.20 feet;
S 45° 37' 04" W	221.00 feet;
S 47° 49' 21" W	223.28 feet;
S 34° 56' 49" W	48.81 feet;
S 67° 03' 13" W	55.76 feet;
S 53° 19' 26" W	130.12 feet;

S 80° 15' 16" W	44.25 feet;
S 32° 13' 04" W	66.92 feet;
S 55° 37' 48" W	173.88 feet;
S 51° 33' 19" W	112.73 feet;
S 61° 04' 19" W	215.19 feet;
S 56° 51' 24" W	346.18 feet;
S 56° 25' 21" W	221.58 feet;
S 67° 33' 17" W	41.15 feet;
N 58° 10' 08" W	33.09 feet;
S 17° 54' 00" W	49.78 feet;
S 62° 18' 36" W	188.86 feet;
S 57° 46' 32" W	165.57 feet;
N 38° 03' 06" W	21.33 feet;
N 88° 32' 41" W	68.12 feet;
S 12° 22' 51" E	57.51 feet;
S 48° 40' 12" W	178.30 feet;
S 41° 35' 48" W	172.47 feet;
S 36° 33' 56" W	176.15 feet;
N 81° 30' 17" W	17.53 feet;
S 53° 47' 52" W	78.96 feet;
S 28° 23' 20" W	85.43 feet;
S 15° 29' 10" W	79.85 feet;

S 29° 31' 08" E 29.25 feet to a point having California Coordinate system coordinates of  $x=2,477,121.09$  and  $y=396,395.12$  (from this point California State Lands Commission Monument PI-2 bears S 76° 39' 55" W, 97.64 feet);

then, from the point having coordinates  $x=2,477,121.09$  and  $y=396,395.12$ , continuing along the right bank of the former main channel the following 25 courses:

S 06° 26' 46" E	57.36 feet;
S 18° 42' 28" W	17.93 feet;

S 15° 52' 35" E 92.23 feet;  
 S 45° 00' 47" E 30.89 feet;  
 S 19° 29' 24" E 110.27 feet;  
 S 29° 06' 49" E 45.26 feet;  
 S 04° 26' 36" E 98.22 feet;  
 S 45° 32' 02" E 33.39 feet;  
 S 07° 28' 04" W 48.09 feet;  
 S 35° 51' 36" E 11.57 feet;  
 N 72° 13' 01" E 11.95 feet;  
 S 25° 43' 00" E 43.49 feet;  
 S 04° 27' 44" E 22.88 feet;  
 S 44° 21' 17" E 54.00 feet;  
 S 05° 36' 45" E 66.77 feet;  
 S 10° 40' 31" W 89.07 feet;  
 S 32° 30' 39" E 76.54 feet;  
 S 19° 02' 55" E 187.18 feet;  
 S 66° 50' 31" W 20.47 feet;  
 S 12° 51' 25" E 22.15 feet;  
 S 79° 39' 39" E 20.84 feet;  
 S 23° 46' 22" E 148.62 feet;  
 S 24° 33' 42" E 111.17 feet;  
 S 22° 20' 19" E 169.54 feet;

S 51° 38' 44" E 31.34 feet to a point  
 having California Coordinate System coordinates  
 of  $x=2,477,623.43$  and  $y=394,949.53$  (from  
 this point Witness Corner, Meander Corner, U.S.  
 Bureau of Land Management plat, 1962, Town-  
 ship 11 South, Range 22 East, San Bernardino  
 Meridian bears S 33° 07' 54" W, 50.09 feet);  
 then, continuing along the right bank of the former  
 main channel, from the point whose coordinates  
 are  $x=2,477,623.43$  and  $y=394,949.53$ , the  
 following 7 courses:

S 24° 40' 06" E 53.91 feet;

S 30° 48' 33" E 201.41 feet;  
 S 32° 35' 32" E 240.99 feet;  
 S 41° 33' 23" E 64.16 feet;  
 S 06° 27' 39" E 41.95 feet;  
 S 44° 47' 21" E 42.30 feet;

S 31° 10' 03" E 290.43 feet to a point  
 having California Coordinate System coordinates  
 $x=2,478,106.29$  and  $y=394,156.29$  (from this  
 point U.S. Bureau of Land Management  
 Meander Corner, Township 11 South, Range 22  
 East, San Bernardino Meridian bears  
 S 12° 20' 53" E, 65.70 feet);

then, continuing along the right bank of the former  
 channel, from the point having coordinates of  $x=$   
 $2,478,106.29$  and  $y=394,156.29$ , the following  
 21 courses:

S 30° 20' 17" E 193.21 feet;  
 S 35° 31' 37" E 230.58 feet;  
 S 33° 32' 33" E 109.82 feet;  
 S 31° 07' 03" E 291.64 feet;  
 S 35° 58' 44" E 110.62 feet;  
 S 29° 31' 41" E 141.28 feet;  
 S 36° 50' 40" E 193.40 feet;  
 S 49° 35' 07" E 90.66 feet;  
 S 30° 07' 37" E 233.52 feet;  
 S 31° 53' 02" E 251.15 feet;  
 S 36° 13' 48" E 203.04 feet;  
 S 46° 06' 54" E 83.21 feet;  
 S 71° 32' 41" E 26.63 feet;  
 S 37° 18' 41" E 91.38 feet;  
 S 34° 03' 47" E 113.30 feet;  
 S 26° 18' 12" E 105.77 feet;  
 S 41° 04' 58" E 109.72 feet;  
 S 31° 06' 48" E 112.40 feet;  
 S 44° 54' 33" E 116.06 feet;

S 26° 40' 57" W 28.35 feet;

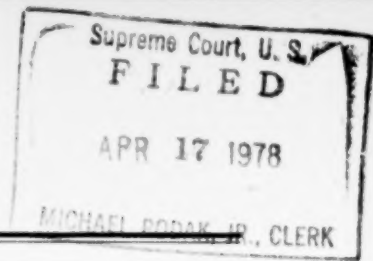
S 33° 31' 01" E 219.44 feet to a point having California Coordinate System coordinates  $x=2,479,810.27$  and  $y=391,658.77$  (from this point, California State Lands Commission Monument RB-RP3 bears S 66° 39' 30" E, 20.52 feet);

then, continuing along the right bank of the former main channel, from the point whose coordinates are  $x=2,479,810.27$  and  $y=391,658.77$ , the following 47 courses:

S 44° 43' 41" E	147.52 feet;
S 35° 46' 12" E	92.93 feet;
S 40° 14' 44" E	131.38 feet;
S 07° 04' 43" W	41.30 feet;
S 69° 06' 50" E	25.81 feet;
S 38° 04' 24" E	119.03 feet;
S 42° 30' 44" E	98.39 feet;
S 31° 35' 31" E	120.76 feet;
S 34° 30' 30" E	195.40 feet;
S 28° 01' 14" E	117.07 feet;
S 32° 38' 46" E	156.49 feet;
S 11° 54' 21" E	34.12 feet;
S 39° 20' 10" E	130.18 feet;
S 34° 12' 23" E	153.60 feet;
S 21° 29' 38" E	46.34 feet;
S 47° 44' 29" E	81.61 feet;
S 30° 52' 09" E	78.84 feet;
S 57° 36' 19" E	106.99 feet;
S 37° 14' 12" E	256.55 feet;
S 38° 58' 33" E	258.69 feet;
S 45° 46' 13" E	91.01 feet;
S 31° 33' 36" E	94.10 feet;
S 57° 50' 57" W	26.33 feet;

S 07° 09' 59" E	20.60 feet;
S 78° 52' 10" E	63.92 feet;
S 07° 28' 16" E	22.99 feet;
S 32° 48' 30" E	160.95 feet;
S 24° 10' 21" E	195.83 feet;
S 30° 32' 33" E	247.57 feet;
S 31° 56' 13" E	71.89 feet;
S 03° 23' 22" E	32.31 feet;
S 32° 31' 22" E	188.29 feet;
S 28° 02' 01" E	196.47 feet;
S 18° 34' 38" E	110.90 feet;
S 11° 10' 23" E	66.47 feet;
S 33° 58' 06" E	59.38 feet;
S 02° 15' 15" W	31.52 feet;
S 27° 25' 03" E	115.12 feet;
S 19° 18' 42" E	76.05 feet;
S 01° 27' 20" E	26.77 feet;
S 17° 11' 36" E	236.98 feet;
S 10° 46' 23" E	62.38 feet;
S 18° 31' 39" E	99.70 feet;
S 21° 27' 16" E	182.39 feet;
S 48° 21' 04" E	40.40 feet;
S 07° 51' 38" W	195.38 feet;
S 09° 17' 17" W	123.85 feet;

then S 77° 38' 10" E, 213.25 feet to the TRUE POINT OF BEGINNING. All coordinates, bearings, and distances in this description are on the California Coordinate System, Zone 6.



IN THE  
Supreme Court of the United States

OCTOBER TERM, 1977

No. 78, Original

STATE OF CALIFORNIA,

*Plaintiff,*

vs.

STATE OF ARIZONA and the  
UNITED STATES OF AMERICA,

*Defendants.*

BRIEF IN OPPOSITION TO MOTION  
FOR LEAVE TO FILE COMPLAINT

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IN THE  
Supreme Court of the United States

OCTOBER TERM, 1977

No. 78, Original

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STATE OF CALIFORNIA,  
*Plaintiff.*

vs.

STATE OF ARIZONA and the  
UNITED STATES OF AMERICA,  
*Defendants.*

---

OPPOSITION TO MOTION  
FOR LEAVE TO FILE COMPLAINT

---

The State of Arizona, appearing by its Acting Attorney General John A. LaSota, Jr. and Assistant Attorneys General Anthony B. Ching and Russell A. Kolsrud, respectfully requests this Court to deny the Motion for Leave to File Complaint filed by the State of California against the State of Arizona and the United States of America.

The State of California has available to it another forum within which to adjudicate any issues presented in its Complaint, and further, a quiet title action is inappropriate litigation for this Court. Therefore, the State of Arizona respectfully requests this

Court to decline to accept jurisdiction and deny Plaintiff's Motion for Leave to File Complaint.

JOHN A. LaSOTA, JR.  
Acting Attorney General of the  
State of Arizona

By  
ANTHONY B. CHING  
Assistant Attorney General  
RUSSELL A. KOLSRUD  
Assistant Attorney General  
*Attorneys for Defendant  
State of Arizona*

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1977  
No. 78, Original

STATE OF CALIFORNIA,  
*Plaintiff,*

vs.

STATE OF ARIZONA and the  
UNITED STATES OF AMERICA,  
*Defendants.*

**BRIEF IN OPPOSITION TO MOTION  
FOR LEAVE TO FILE COMPLAINT**

**STATEMENT IN OPPOSITION TO  
MOTION FOR LEAVE TO FILE COMPLAINT**

The action sought to be maintained in this Court purports to quiet title to lands located entirely within the State of California. This is not a "boundary" dispute, but merely a question of uncertainty as to the description of the confines of ownership of land belonging to California, the United States of America, Arizona, and citizens who possess property interests in adjacent lands. This "uncertainty" does not rise to the seriousness or dignity of a claim appropriate to invoke the original jurisdiction of this Court. Further, this Court should not invoke its original jurisdiction where

there is available another forum which may grant relief to the parties regarding the alleged issues in this action.

## ARGUMENT

### I. Facts

The State of Arizona agrees generally with the Background as stated in California's Motion, however, it should be emphasized that this is not a boundary line dispute to which this Court normally invokes its original jurisdiction. *E.g., Michigan v. Wisconsin*, 272 U.S. 398 (1926).

The boundary between the State of Arizona and the State of California was settled by the "Interstate Boundary Compact of Arizona and California" (1966). This Compact determined the political boundary between the states and defined their jurisdictional reach. It settled the question of which parcels of land lie within the State of Arizona or the State of California. There is no longer any confusion as to the correct boundary for the enforcement and administration of the laws of the respective states.

This quiet title action will not establish any boundary line between Arizona and California. The dispute, if any, is merely a survey problem. The uncertainty is to describe the confines of ownership of lands located within an established boundary of California. Therefore, this Court is faced with a land title problem and not a boundary dispute between states. A title dispute poses complex factual issues and is better determined by the U.S. District Court.

## II. Availability of Another Forum

The original jurisdiction of this Court is invoked sparingly and only in appropriate cases. *Arizona v. New Mexico*, 425 U.S. 794 (1976); *Illinois v. City of Milwaukee*, 406 U.S. 91 (1972); *Massachusetts v. Missouri*, 308 U.S. 1 (1939). This is especially true when another forum is available which can adjudicate the issues and grant the appropriate relief. *Arizona v. New Mexico*. A quiet title action against the United States is statutory and must be brought in the District Court. 28 U.S.C. § 1346(f) (1976) states:

(f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States.

This suit could have been properly brought in the U.S. District Court to quiet title against the United States. *Buchler v. United States*, 384 F.Supp. 709 (1974). Additionally, Arizona would consent to such an action and waive any immunity it may possess under Title 28, U.S.C. In the event a suit is filed in the U.S. District Court, Arizona will intervene and have the issues adjudicated therein. *See W. H. Pugh Coal Company v. United States*, 418 F.Supp. 538 (1976), wherein the state of Wisconsin intervened in the District Court in the quiet title action against the United States. Consequently, it is clear that the appropriate forum for this litigation would be the U.S. District Court. All factual issues can be litigated therein and full relief granted to all parties, including any other citizens who may have claims.

### III. Inappropriate Litigation For the Supreme Court

If this Court accepts jurisdiction of this case, the Court will not be involved in adjudicating complicated legal issues but merely involved in survey problems presenting complex factual issues. As pointed out by California's Motion, much of the land in question has not yet been surveyed. California attempts to involve this Court in the supervision of a survey of this land which will take years or decades. Negotiation, not litigation, is the answer to whatever disputes that may arise.

This Court in *New York v. New Jersey*, 256 U.S. 296 (1921), declined to accept jurisdiction in a suit between states because the problem involved was one more likely to be solved by cooperative study and conference on the part of the states rather than proceeding in litigation. This Court pointed out that in order to confer jurisdiction, the threatened invasion of rights had to be of very serious magnitude and must be established by clear and convincing evidence, citing *Missouri v. Illinois*, 200 U.S. 496 (1906).

As in the present case, any possible disputes in the survey process would more likely be solved by negotiation between the parties rather than litigation. Talks have already begun by both California and Arizona to solve these problems through possible legislation and exchange of property. A negotiated settlement would be in the best interests of all parties and eliminate the necessity of litigation. Therefore, this Court should decline to accept jurisdiction and allow the parties to come to a negotiated settlement.

### CONCLUSION

For all the enumerated reasons, California's Motion should be denied.

RESPECTFULLY SUBMITTED this 14th day of April, 1978.

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State of Arizona

By  
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**PROOF OF SERVICE**

ANTHONY B. CHING, a member of the bar of this Court, certifies that all parties required to be served have been served on this 14th day of April, 1978 by mailing three copies of this brief, air mail postage pre-paid and addressed to:

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ANTHONY B. CHING

No. 78, Original

Supreme Court, U. S.

FILED

APR 20 1978

MICHAEL SODAN, JR., CLERK

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**In the Supreme Court of the United States**

OCTOBER TERM, 1977

---

STATE OF CALIFORNIA, PLAINTIFF

v.

STATE OF ARIZONA and the UNITED STATES OF AMERICA

---

**RESPONSE OF THE UNITED STATES TO  
THE MOTION FOR LEAVE TO FILE COMPLAINT**

---

WADE H. MCCREE, JR.,  
*Solicitor General,*  
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---

**In the Supreme Court of the United States**

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No. 78, Original

STATE OF CALIFORNIA, PLAINTIFF

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**RESPONSE OF THE UNITED STATES TO  
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Pursuant to 28 U.S.C. 1251(a)(1) and (b)(2) California seeks leave to file a complaint to quiet title to certain lands on an 11.3 mile stretch of the former beds of the Colorado River. As Arizona emphasizes in its Brief in Opposition to the motion (Br. in Opp. 4), the question presented here is not that of the proper political boundary between the two States,<sup>1</sup> but, rather, the ownership of the various beds and channels that have been occupied by the river, and the precise location of these beds, their banks, and the mid point of each channel.

1. The United States agrees with Arizona's suggestion that the case poses complex factual issues which should, if possible, be resolved by a federal district court rather than

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<sup>1</sup>The Interstate Compact Defining the Boundary Between the States of Arizona and California, 80 Stat. 340, defined the political boundary between the two States by fixed stations of latitude and longitude to eliminate jurisdictional confusion.

by this Court. We are unable to agree, however, with Arizona's conclusion (Br. in Opp. 5) that an alternative forum is available in the district court. Although Arizona has advised the Court (*ibid.*) that it "would consent to such an action [brought in federal district court] and waive any immunity it may possess under Title 28, U.S.C.," the parties may not by consent confer jurisdiction on any court. 28 U.S.C. 1251(a)(1) provides that the Supreme Court "shall have original and exclusive jurisdiction" over "[a]ll controversies between two or more States," and this provision has been construed as applicable to suits involving conflicting claims by one State against another regardless of the presence of the United States as a party, or the alignment of the parties. See *United States v. Nevada*, 412 U.S. 534, 537; *State Water Control Board v. Washington Suburban Sanitary Commission*, 61 F.R.D. 588 (D. D.C.). Accordingly, there is no forum other than this Court in which the dispute between California and Arizona may be resolved. Compare *Illinois v. City of Milwaukee*, 406 U.S. 91.

2. California seeks to make the United States, as well as Arizona, a defendant. Recognizing that suits against the United States are barred by sovereign immunity absent a waiver by Congress, California invokes 28 U.S.C. (Supp. V) 2409a(a). In relevant part, that provision permits the United States to be named "as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the United States claims an interest \* \* \*." But this waiver extends only to suits brought in the district court; 28 U.S.C. (Supp. V) 1346(f) provides that "[t]he district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title \* \* \*." It is of course settled that Congress may authorize suits against the United States to be brought only in designated courts. *United States v. Shaw*, 309 U.S. 495.

Accordingly, the question arises whether the suit could proceed as between California and Arizona, in the absence of the United States. We think not. Insofar as the two States disagree about the location and width of the former main channel of the Colorado River in the Davis Lake area, the resolution of that dispute will inevitably affect the interests of the United States as the principal riparian landowner. The United States, therefore, would seem to be an indispensable party.

3. We would normally be reluctant to assert the sovereign immunity of the United States and its status as an indispensable party to bar *bona fide* interstate litigation. But we note Arizona's representation (Br. in Opp. 6) that "[t]alks have already begun by both California and Arizona to solve these problems through possible legislation and exchange of property." We agree with Arizona that a negotiated settlement, if one can be reached, would be in the best interests of all parties. Accordingly, the Court may deem it appropriate to hold California's motion without action for a reasonable period of time to permit the parties to try to reach agreement, or at least narrow the areas of dispute. In the alternative, the Court might deny California's motion without prejudice to its renewal if no agreement can be reached.

In either event, if, after the lapse of a reasonable time, no agreement has been reached, we would urge the Court to grant California's motion as to Arizona, on the understanding that the United States would without delay seek permission to intervene. Such intervention would, however, be limited to the area south of the junction of the "Pilot Cut" with the 1947 bed of the river. We make this reservation in light of the statute of limitations that

Congress enacted in lifting sovereign immunity to permit quiet title actions to be brought in the district court (28 U.S.C. (Supp. V) 2409a(f)); in our view, this provision should foreclose any challenge to long published federal claims north of that point.

Respectfully submitted.

WADE H. MCCREE, JR.,  
*Solicitor General.*

APRIL 1978.

MAY 9 1978

MICHAEL RODAK, JR., CLERK

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In the Supreme Court of the  
United States

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October Term, 1977

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No. 78, Original

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STATE OF CALIFORNIA,

*Plaintiff,*

VS.

STATE OF ARIZONA and the  
UNITED STATES OF AMERICA,

*Defendants.*

---

Reply of California to Opposition of  
Arizona and to Response of  
The United States on Motion for  
Leave to File Complaint

---

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**In the Supreme Court of the  
United States**

**October Term, 1977**

**No. 78, Original**

STATE OF CALIFORNIA,  
*Plaintiff,*

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STATE OF ARIZONA and the  
UNITED STATES OF AMERICA,  
*Defendants.*

**Reply of California to Opposition of  
Arizona and to Response of  
The United States on Motion for  
Leave to File Complaint**

The State of California respectfully files this reply to (1) the Brief in Opposition to Motion for Leave to File Complaint filed by the State of Arizona and (2) the Response of the United States to the Motion for Leave to File Complaint.

**I.**

**THERE IS NO OTHER FORUM IN WHICH CALIFORNIA  
MAY HAVE ADJUDICATED ITS CLAIMS  
AGAINST ARIZONA**

Arizona contends (Brief in Opposition [cited hereinafter as Br. in Opp.], 1, 3-4) that this action may properly be brought in district court, asserting also that it may consent to suit "and intervene [in that forum] and have all issues adjudicated therein" (*id.*, 5). Arizona errs.

The conferring of jurisdiction over a sovereign state by that state's consent does not appear to be possible. As the United States points out in its Response to California's Motion for Leave to File Complaint (cited hereinafter as U. S. Resp.) at page 2, "there is no forum other than this Court in which the dispute between California and Arizona may be resolved."

This is clearly a dispute between two states in their capacity as sovereigns which is governed by the original and exclusive jurisdiction clause of 28 United States Code section 1251(a)(1)<sup>1</sup> and which cannot be litigated in another forum. See *State Water Control Board v. Washington Suburban Sanitary Commission* (D. D.C. 1974) 61 F.R.D. 588, in which the District Court for the District of Columbia denied the motion of the State of Maryland to intervene as a defendant as against Virginia because the granting of that motion would have made the controversy into a suit between two states and thus defeated that court's jurisdiction.<sup>2</sup>

1. 28 U.S.C. § 1251(a) provides:

"The Supreme Court shall have original and exclusive jurisdiction of:

(1) All controversies between two or more States; . . . ."

2. Citation by Arizona of *W. H. Pugh Coal Company v. United States* (E.D. Wisc. 1976) 418 F.Supp. 538, a quiet title dispute between the United States and a private party in which one state intervened, is inapposite. That case does not support the argument that a suit between two states would be properly brought or maintained in a district court. *Arizona v. New Mexico* (1975) 425 U.S. 794 is also inapposite. Not only did Arizona seek to sue in its proprietary rather than exclusively in its sovereign capacity, but a state court action was already pending in which the issues tendered by Arizona were to be litigated (*id.* at 796-97). By contrast, in the instant case there is no possible permissible alignment of the three mutually adverse parties to this action in district court and no forum—other than this Court—in which California may obtain resolution of the questions here presented. See also *United States v. Nevada* (1972) 412 U.S. 534, 538.

The question of whether this Court should invoke its original jurisdiction "necessarily involves the availability of another forum where there is jurisdiction over the named parties. . . ." *Illinois v. City of Milwaukee* (1971) 406 U.S. 91, 93. Because this is a suit between two sovereign states this Court is the only forum for resolution of the issues presented.<sup>3</sup>

## II.

### THE UNITED STATES MAY PROPERLY BE JOINED AS A DEFENDANT IN THIS COURT

Conceding that it "would seem to be an indispensable party" to resolution of the issues presented in this "bona fide interstate litigation" (U.S. Resp., 3), the United States nevertheless asserts that it is immune from suit in this Court (U. S. Resp., 2).

The Government's contention rests upon the theory that the waiver of sovereign immunity contained in 28 United States Code, (Supp. V) section 2409a(a)<sup>4</sup> is valid only if

3. The fact that this case may present "complex factual issues" does not mean that the only appropriate forum is a district court as both Arizona (Br. in Op., 4) and the United States (U.S. Resp., 1-2) suggest. Cases on this Court's original docket have frequently involved complex factual questions which, as both defendants know, have in the first instance been committed to a Special Master. E.g., *Arizona v. California* (1953) 347 U.S. 986 (order appointing special master); *United States v. California* (1947) 334 U.S. 855-56 (order appointing special master). There is no merit to the contention that cases within this Court's original and exclusive jurisdiction should be refused consideration merely because they involve resolution of factual issues. As such cases frequently involve complex factual questions, adoption of such a rule would render meaningless the jurisdictional authority of 28 United States Code § 1251(a)(1).

4. 28 United States Code section 2409a(a) provides:

"The United States may be named as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the United States claims an interest other than a security interest or water rights . . . ."

suit is brought in district court, citing 28 United States Code (Supp. V) section 1346(f)<sup>5</sup> (U.S. Resp., 2) and *United States v. Shaw* (1939) 309 U.S. 495, 501, in which this Court stated: "Even when suits are authorized they must be brought only in designated courts."

The result for which the United States argues produces a consequence which the Congress cannot have intended. If we accept the argument of the United States there is no forum in which one state may sue both another state and the United States to resolve title questions.<sup>6</sup> Such a conclusion if allowed to stand would have most serious and substantial impact upon those public land states west of the Mississippi River in which the federal government is almost certainly the largest single proprietor of uplands adjacent to state boundaries<sup>7</sup> as it would preclude complete and effective resolution of land disputes among sovereigns. Stated differently, the consequence of the federal government's position is that merely because two states are parties to a dispute with the United States in which the states have

5. 28 United States Code (Supp. V) section 1346(f) provides: "The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States."

6. California is not unappreciative of the United States' stated willingness to intervene in this case to solve—albeit partially—the dilemma which results from the federal government's legal position (see U.S. Resp., 3). California cannot however fail to stress that that intervention is significantly limited and that such restriction could make impossible consideration of the validity of the federal government's assertion of the statute of limitations defense as well as other issues which may be presented concerning the area north of the junction of the "Pilot Cut" with the 1947 bed of the Colorado River. See *infra*, at 9 n. 8.

7. This conclusion is derived from the fact of the vast land holdings by the federal government in the west. See Statistical Abstract of the United States (1977) Table No. 368, p. 227.

claims against each other, there is no forum available to them in which full and complete judicial relief can be obtained.

California submits that this dilemma is created by the federal government's erroneous interpretation of 28 United States Code (Supp. V) section 1346(f) and can be resolved by this Court rejecting that construction and interpreting the code section in question as being inapplicable to suits brought by states, i.e., as governing only suits brought by private parties. This result would give full weight to both the congressional waiver of governmental immunity contained in 28 United States Code section 2409a(a) and to the section 1251(a)(1) grant of original *and exclusive* jurisdiction to this Court of causes between states.

Further, the exclusive jurisdiction language of section 1346(f) can legitimately be read as intended only to preclude suits against the United States to quiet title *in state courts* and not as preventing the states from having our day in *any* court.

Thus plaintiff contends that in section 1346(f) the Congress used the term "exclusive" to require adjudication of quiet title claims in a federal—not a state—forum (cf. *Charles Dowd Box Co. v. Courtney* (1962) 368 U.S. 502, 508 (concurrent state court jurisdiction exists unless expressly excluded by Congress) and *Porto Rico v. Rosaly* (1912) 227 U.S. 270, 275-277 (like words may have different meaning depending on the context; the words "to sue and be sued" do not constitute waiver of sovereign immunity)).

The legislative history of the quiet title statute does not address the question of the proper forum for quiet title suits among sovereigns. It does, however, confirm that a principal purpose for section 1346 was to adopt the federal government's view that "it is the better policy to litigate

questions of the government's title in the federal courts. . . ." Letter from the Attorney General to the Speaker of the House of Representatives, October 6, 1971, quoted in House Resolution No. 92—1559, 1972 U.S. Code Congressional and Administrative News, 4547, 4555.

The United States' contention that sovereign immunity is waived only if suit is brought in district court is in some respects analogous to the situation presented in *Minnesota v. United States* (1938) 305 U.S. 382. There the United States argued that a statute granting permission to sue the federal government must be construed to permit suits only in the federal courts unless there is an explicit reference to state tribunals. (*Id.* at n. 5.) Just as this Court rejected that contention it should reject the analogous contention made here that, because the Congress did not specifically state that this Court has jurisdiction over quiet title actions between states in which the United States is an indispensable party, the federal government is immune from such suit in this Court. (Cf. *FHA v. Burr* (1939) 309 U.S. 242, 245 ("[W]e start from the premise that such waivers by Congress of governmental immunity . . . should be liberally construed.").)

It is wholly reasonably to conclude that the Congress was aware of the exclusive jurisdiction of this Court over causes between states and did not envision any objection to section 2409a actions being filed here when the alignment of the parties so requires, as it does in this case.

### III.

#### **THIS DISPUTE OVER OWNERSHIP OF SOVEREIGN LANDS IS APPROPRIATE LITIGATION FOR THIS COURT**

Arizona asserts that the questions presented are mere survey problems which will take decades to resolve and which therefore should not be presented to this Court (Br.

in Opp., 6). Arizona and the United States contend that negotiation, not litigation, is the proper way to resolve the differences among the parties; Arizona further contending that California's motion should be denied (Br. in Opp., 6, 7) and the United States suggesting that the Court either hold the motion without action for a reasonable period of time to permit the parties to try to reach agreement or deny the motion without prejudice (U. S. Resp., 3). Plaintiff will dispose of these contentions in reverse order.

*First*, the facts do not support the assertion that the issues can be resolved by negotiation. For more than four years California has been attempting to secure the cooperation of Arizona and the United States to obtain a negotiated settlement of the issues to the extent possible. California initiated those discussions, made several visits to Arizona to meet with officials of that state and of the federal government, shared its information with both defendants and otherwise urged each of them to join in resolving the problems presented. Neither agency has to date so far as California is aware made any substantial effort to resolve the dispute. Thus this lawsuit follows four years of unsuccessful efforts initiated and maintained by California to resolve this matter by other means. Neither defendant gave this matter any priority until the instant motion was filed. Whether they will now is still not clear.

Although California remains willing to discuss resolution of the issues with the defendants, experience demonstrates that she cannot expect any progress unless formal judicial assistance is available. Should the Court deny or hold California's motion, there will no longer be the impetus which both Arizona and the United States previously advised California was necessary for their respective jurisdictions to devote the resources necessary to resolve the issue presented in this dispute.

*Second*, the proposed complaint states substantial questions appropriate for resolution by this Court. This Court has in the past exercised its original jurisdiction to decide quiet title disputes involving complex questions of fact. (E.g., *United States v. Utah* (1930) 283 U.S. 64; *Utah v. United States* (1970) 403 U.S. 9.)

The questions presented are important because they involve not only states in their sovereign capacity, but lands which they acquired by virtue of that sovereignty upon admission to the Union. (See e.g., *Oregon ex rel. State Land Board v. Corvallis Sand & Gravel Co.* (1976) 429 U.S. 363, 370-5.)

Moreover, as California stated in its Statement in Support of Motion for Leave to File Complaint, the uncertainty as to boundaries inhibits effective management of the public lands involved and protection of environmental values as well as rendering unmarketable titles to lands along the Colorado River, (*id.*, at 8-9.) Thus the public interest in resolving the questions presented is substantial.

*New York v. New Jersey* (1921) 256 U.S. 296 (Br. in Opp., 6) is inapposite. There the issues of which New York complained had already been resolved by a stipulation between the United States, which had intervened, and the defendant (*id.*, at 306). Recognizing the posture of that litigation, this Court suggested that New York should wait and see if the stipulation produced the result intended, denying New York's request without prejudice (*id.*, at 313-14), while also noting that "the right of the state to maintain such a suit . . . is very clear" (*id.*, at 301). By contrast, in the present case nothing has been resolved even after four years of effort by California to reach a negotiated agreement.

Plaintiff submits that the present case is an appropriate one for the exercise of this Court's original and exclusive jurisdiction. Cf. *Illinois v. City of Milwaukee, supra*, 406 U.S. 91, 93.)<sup>8</sup>

### CONCLUSION

For each of the foregoing reasons plaintiff urges this Honorable Court to reject the contentions made by defendants and grant California's motion for leave to file its complaint.

DATED: May 5, 1978.

Respectfully submitted,

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8. The United States alludes to a statute of limitations question presented by a portion of California's proposed complaint (U.S. Resp., 3-4). Plaintiff believes that analysis of the factual merits of such defense should await a more definite statement of its basis and points out that such a defense may be questionable insofar as it (1) precludes a state as sovereign from confirming title to its sovereign lands, or (2) otherwise deprives a state of an incident of its sovereignty, viz. the lands which inure to it under the equal footing doctrine.

As a "state's title to lands underlying navigable waters within its boundaries is conferred not by Congress but by the Constitution itself" (*Oregon ex rel. State Land Board v. Corvallis Sand & Gravel Co.*, *supra*, 429 U.S. 369, 374, citing *Pollard's Lessee v. Hagan* (1845) 3 How. (44 U.S.) 212) and as "the title thus acquired by the state is absolute so far as any principle of land titles is concerned" (*ibid.*), the Congress may be without the power to preclude suits by the states to confirm titles to our sovereign lands and federal surveys affecting such lands may be of questionable effect.

Supreme Court, U. S.  
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IN THE  
Supreme Court of the United States

OCTOBER TERM, 1977

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*Plaintiff,*

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*Defendants.*

---

REPLY BRIEF  
OF THE STATE OF ARIZONA

---

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REPLY BRIEF  
OF THE STATE OF ARIZONA

---

The State of Arizona respectfully replies to (1) the brief of the United States in response to the motion for leave to file complaint, and (2) the Reply filed by California to the Responses of the United States and the State of Arizona.

I

JURISDICTION OF THE DISTRICT COURT

The United States and California insist that Arizona cannot surrender itself to the "jurisdiction" of the district court in California. California argues that such an act by Arizona is impossible and the United States contends that Arizona cannot "confer jurisdiction" upon the district court.

Initially, it should be noted that the question under consideration is not one of subject matter jurisdiction but of jurisdiction over a party. Arizona cannot confer subject matter jurisdiction on a district court in California, because jurisdiction over the subject matter of litigation cannot be bestowed by agreement or consent. *Industrial Addition Ass'n v. Commissioner of Internal Revenue*, 323 U.S. 310, 313 (1945); *Grubb v. Public Utilities Comm'n of Ohio*, 281 U.S. 470, 475 (1930). However, Arizona may submit itself to personal jurisdiction in any court since jurisdiction over a party may arise from voluntary submission or consent. *Cooper v. Reynolds' Lessee*, 77 U.S. (10 Wall.) 308 (1870).

In the present case, the district court where the land is located has jurisdiction over the subject matter to quiet title. *Uhlhorn v. U.S. Gypsum Co.*, 366 F.2d 211 (1966). Once the court has subject matter jurisdiction, then jurisdiction over the parties can be obtained through various means including consent as discussed herein.

The cases cited by the United States and California fail to support their argument that the district court lacks the power to exercise jurisdiction over Arizona. Moreover, these cases support Arizona's argument favoring jurisdiction of the district court. *Illinois v. City of Milwaukee*, 406 U.S. 91 (1972) was an action by Illinois against four Wisconsin cities. This Court held that the term "states" in 28 U.S.C. § 1251(a)(1) did not include political subdivisions. Therefore, Illinois' motion for leave to file the complaint was denied and the case was remitted to the district court, whose powers were adequate to resolve the issues. Further, the court also implied that the State of Wisconsin could

intervene as a party defendant in the action and have the issues resolved at the district court level.

California and the United States also cite *United States v. Nevada*, 412 U.S. 534 (1973), for the proposition that Arizona cannot submit to the jurisdiction of a district court in California. That case involved a suit by the United States to perfect water rights. Although California was an upper riparian owner and could not be forced to subject itself to suit in Nevada, this Court suggested that California could voluntarily appear.

We recognize that the United States will not be able to join California as a defendant in a suit in Nevada to perfect Pyramid Reservation water rights and that, *absent California's voluntary appearance*, a Nevada decree would not bind that State. 412 U.S. at 538 (emphasis added).

As stated herein, so long as the district court has subject matter jurisdiction then a party may appear voluntarily and be bound by any decree entered. This is precisely what can be done in the present case.

The United States and California also rely upon *State Water Control Board v. Washington Suburban Sanitary Comm'n*, 61 F.R.D. 588 (1974), which involved, *inter alia*, the question of whether Maryland could intervene as a party defendant against the State of Virginia. The court stated that Maryland's entry as a party defendant would divest that court of jurisdiction because the suit would then involve a controversy between two states. The court relied upon and cited the Constitution of the United States, Article III, § 2,

Clause 2,<sup>1</sup> and 28 U.S.C. § 1251.<sup>2</sup> The court stated that a suit between two states was an action to be maintained only in the United States Supreme Court, and emphasized that Maryland cited no authority to relax the jurisdictional statement of the Constitution and 28 U.S.C. § 1251.

As can be ascertained by a cursory reading of this case, the court's decision was based on a strict and literal interpretation of the constitutional and statutory language. Moreover, Maryland's lack of cited authorities to interpret the application of original jurisdiction under 28 U.S.C. § 1251 weighed heavily in the decision. The court was in error because a state may voluntarily appear and not divest the district court of jurisdiction. See *United States v. Nevada*; *Illinois v. City of Milwaukee*, and *Cooper v. Reynolds' Lessee*.

There is no constitutional barrier to a lawsuit between two states in a federal district court. The Constitution states that the Supreme Court shall have original jurisdiction in those cases in which a state is a

<sup>1</sup> Constitution of the United States, Art. III, § 2, Cl. 2, states as follows:

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

<sup>2</sup> 28 U.S.C. § 1251, *Original Jurisdiction*, provides:

(a) The Supreme Court shall have original and exclusive jurisdiction of:

(1) All controversies between two or more states;

party.<sup>3</sup> The Constitution does not say jurisdiction in the Supreme Court is original only if the controversy is between *two states*, nor does the Constitution specify that jurisdiction is exclusive. The classification between states and non-states as parties to a lawsuit is a distinction premised upon the principle that the dignity of states as parties prevents them from litigating without their consent in any court other than the United States Supreme Court. Alexander Hamilton, commenting upon the original jurisdictional clause of the Constitution, stated, "In cases in which a state might happen to be a party, it would ill suit its dignity to be turned over to an inferior tribunal." *The Federalist No. 81* (J.C. Hamilton ed. 1868), p. 601.

The Constitution does not impose any guidelines upon the jurisdiction of the Supreme Court regarding cases between states. Indeed, this was recognized by Congress in the first Judiciary Act of 1789, where it was determined that the original jurisdiction of the Supreme Court expressed in the Constitution could be discharged with concurrent jurisdiction in lower federal courts.

The first reported case under the Judiciary Act of 1789 was *United States v. Ravara*, 2 Dall. 297 (C.C.D. Pa. 1793). The court in *Ravara* said that merely because the Constitution states jurisdiction is original it does not follow that it is also exclusive. See also *United States v. California*, 328 F.2d 729 (1964).

<sup>3</sup> See discussion of *Chisholm v. Georgia*, 2 Dall. 419 (1792), *infra*, at n. 4.

Further, sovereign immunity is not an impediment to jurisdiction over Arizona in the federal court in California since Arizona consented to suit in the federal judiciary system when it was admitted to the Union in 1912. A state, by adopting the Constitution, agrees to submit to the judicial power of the United States, and in that respect the state has given up its rights of sovereignty. *Chisholm v. Georgia*, 2 Dall. 419 (1792).<sup>4</sup>

Upon entering the Union, all rights of states as independent nations were surrendered. The anarchy existing in the international sphere of states was eliminated from the internal structure of the United States. Therefore, any exemption from federal judicial power is waived. *Rhode Island v. Massachusetts*, 37 U.S. (12 Pet.) 657 (1838). Consequently, Arizona as a sovereign state is subject to suit within the federal judiciary system, including district courts.

The exclusive jurisdiction of the Supreme Court is subject to interpretation not only by Congress as in 28 U.S.C. § 1251, but also by this Court, which has delineated various barriers to exclusive jurisdiction. See, e.g., *Arizona v. New Mexico*, 425 U.S. 794 (1976), and *Massachusetts v. Missouri*, 308 U.S. 1 (1939). If another forum is available to adjudicate the issues, then this Court through its discretion can decline to accept jurisdiction. In this regard, see Arizona's brief in opposition to the motion for leave to file complaint.

<sup>4</sup> The authority of *Chisholm v. Georgia* was abrogated by the Eleventh Amendment adopted January 8, 1798. The controversy in *Chisholm* was between a state and citizens of another state, and Georgia argued that it was immune from suit as defendant.

## II

### OTHER PARTIES DEFENDANT

Any lawsuit between Arizona and California involving land located near the Colorado River will inevitably affect interests of the United States and other unknown riparian land owners. California, in its briefs admits that other parties will be involved in this litigation, especially if continuing jurisdiction is granted. It should be recognized that continuing jurisdiction will create a darker cloud upon the titles of the riparian land owners than may already exist since large quantities of property will be under the jurisdiction of this Court. As stated in Arizona's original Response in this action, such a result renders this case inappropriate for litigation in the Supreme Court and would more properly be maintained in the district court.

## III

### CONCLUSION

If California and the United States are correct in their position, then any dispute between two states, *irrespective of its merits*, must be brought in the Supreme Court and the Court would be compelled to hear it. This result is erroneous and not in accordance with the interpretation given to the Constitution and 28 U.S.C. § 1251. This Court has consistently held that it does not assume jurisdiction of matters involving slight importance even if the controversy is between two states. E.g., *New York v. New Jersey*, 256 U.S. 296, 309 (1921).

The United States District Court in the district where the land is located has subject matter jurisdiction to quiet title. *Uhlhorn v. U.S. Gypsum Co.*, 366 F.2d 211 (1966). Jurisdiction over the parties can be accomplished by Arizona consenting to suit in the proper district where the land is located and all issues may be adjudicated therein. Therefore, the argument presented by California and the United States that the district court has no power to litigate this case is erroneous and nugatory. Further, the large quantity of unknown parties that could appear in this litigation and the complex factual matters render this case inappropriate for litigation in the Supreme Court.

Therefore, Arizona urges this Court to decline jurisdiction of this matter.

RESPECTFULLY SUBMITTED this 19th day of June, 1978.

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## PROOF OF SERVICE

ANTHONY B. CHING, a member of the bar of this Court, certifies that all parties required to be served have been served on this 19th day of June, 1978, by mailing three copies of this brief, airmail postage prepaid, and addressed to:

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